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Montana's Liquor License Quota System

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MONTANA'S LIQUOR LICENSE QUOTA SYSTEM

A REPORT TO THE

FORTY-SEVENTH LEGISLATURE

REVENUE OVERSIGHT COMMITTEE

NOVEMBER 1980

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MONTANA LEGISLATIVE COUNCIL
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SUMMARY

SJR 30, passed by the Forty-Sixth Legislature, called for a study of the various aspects of alcoholic beverage regulation in Montana. The study was assigned to the Revenue Oversight Committee.

The Committee held eight meetings during the 1979-1981 interim. The study of the liquor license quota system occupied a major part of the Committee's agenda . The staff researchers developed two major reports and four draft bills for the Committee's consideration. In addition, the Committee devoted several meetings to obtaining public comments on the reports and bill drafts.

Two bills were discussed by the Committee that would substantially alter the liquor license quota system. The first bill draft established a system by which current liquor licenses within quota areas were appraised by competent appraisal experts. Anyone desiring a liquor license could purchase one from the state for the appraised value. This bill draft died in the Committee by a vote of five in favor and six against.

The second bill draft discussed by the Committee phased out the current liquor license quota system over a 15-year period. After the phase out period ended -- in 1995 -- anyone would be allowed to purchase a liquor license that qualified under the criteria of need and necessity and good moral character. This bill was recommended by the Committee to the Forty-Seventh Legislature by a vote of six in favor and five against.

Two other bills received unanimous endorsement by the Revenue Oversight Committee. One bill authorizes the use of annual population estimates in establishing the number of liquor licenses available to a quota area due to increased population. The bill also eliminates that provision in current law that allows a special census to be made in some instances. The Committee, and industry representatives, felt this provision would no longer be necessary if the use of annual census estimates were allows.

The final bill endorsed by the Revenue Oversight Committee authorizes the transfer of all-beverages licenses from an incorporated area to a new unincorporated area within the same county under certain conditions. The bill attempts to provide a more even distribution of all-beverages licenses.

The Revenue Oversight Committee recommends that the Forty-Seventh Legislature enact the following legislation:

(1) LC 16 - "AN ACT TO AUTHORIZE THE TRANSFER OF ALL-BEVERAGE LICENSES IN CERTAIN CASES"

(2) LC 18 - "AN ACT TO PHASE OUT OVER A 15-YEAR PERIOD THE LIQUOR LICENSE QUOTA SYSTEM IN MONTANA"

(3) LC 57 - "AN ACT TO ALLOW THE USE OF CERTAIN ANNUAL POPULATION ESTIMATES AS THE BASIS FOR DETERMINING RETIAL BEER LICENSE AND ALL-BEVERAGES LICENSE QUOTAS: AND TO ELIMINATE SPECIAL CENSUS PROVISIONS"

SENATE JOINT RESOLUTION NO. 30

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ASSIGNING THE REVENUE OVERSIGHT COMMITTEE TO CONDUCT AN INTERIM STUDY OF THE VARIOUS ASPECTS OF ALCOHOLIC BEVERAGE REGULATION IN MONTANA.

WHEREAS, the Legislature has established a comprehensive system to regulate and limit the manufacture and sale of alcoholic beverages; and

WHEREAS, the amount of revenue received from sales in state liquor stores and from taxes on alcoholic beverages and license fees is significant to state and local governments; and

WHEREAS, the public interest demands that the Legislature take responsible action to alter certain aspects of the system to meet today's marketing conditions; and

WHEREAS, there have been increasing efforts in the Legislature evidenced by the many bills introduced to alter laws governing the marketing of alcoholic beverages and the licensing of retail outlets; and

WHEREAS, the people have recently adopted by initiative a law altering the marketing system for table wine; and

WHEREAS, piecemeal changes in this system may have unexpected repercussions damaging to consumers, wholesalers, retailers, and the state; and

WHEREAS, responsible legislation can be more effectively developed through study and deliberate consideration by the Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Revenue Oversight Committee is assigned to study all aspects of alcoholic beverages regulation, including marketing, licensing, and quotas and the probable effects of changes that have been proposed. The Committee shall make its recommendations no later than September 15, 1980, and submit its report and recommendations together with implementing legislation to the 47th Legislature.

Approved April 17, 1979.

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SUBJECT: MONTANA'S ALCOHOLIC BEVERAGES RETAIL LICENSE QUOTA SYSTEM

DATE: August 31, 1979

PREPARED FOR: Revenue Oversight Committee

PREPARED BY: Teresa Olcott Cohea, Legislative Researcher

I. INTRODUCTION AND SUMMARY

II. HISTORY OF MONTANA'S BEER AND ALL-BEVERAGES LICENSE QUOTA SYSTEMS

III. PROVISIONS OF MONTANA'S CURRENT QUOTA SYSTEMS

IV. PRELIMINARY ANALYSIS OF CRITICISMS COMMONLY RAISED CONCERNING THE QUOTA SYSTEM

A. Licenses/population comparisions statewide
B. Growth between censuses
C. Transfer of Licenses - personal property issue

I. INTRODUCTION AND BRIEF SUMMARY

In SJR30, the legislature assigned the Revenue Oversight Committee the task of studying "all aspects of alcoholic beverages regulation, including marketing, licensing, and quotas." It also directed the Committee to examine the probable effects of changes that have been proposed in recent sessions, such as proposals to end state retail liquor sales, eliminate the retail liquor license quota system, etc.

As the resolution notes, Montana has had a comprehensive system governing the manufacture and sales of alcoholic beverages since 1933. This system yields significant revenue to both state and local governments through liquor sale profits in state stores, renewal fees, and taxes. Moreover, citizens have made substantial financial investment in licenses and establishments made necessary by these laws.

However, in recent years, there has been increasing pressure to change this system. Numerous bills to narrow the State's retailing role and expand the quota system have been introduced. In 1978, voters passed an initiative that allows the sale of wine in grocery stores, ending the state monopoly over wine. The legislature, in SJR30, recognized that some changes in the system may be necessary to meet current needs, but it also recognized that the statutes and system that have evolved to govern alcoholic beverages are complex and the smallest change in them may have an unexpected impact on the state, consumers, wholesalers, and retailers. Therefore, the legislature felt that study and deliberation was necessary before legislation on the subject was developed.

At its July meeting, the Revenue Oversight Committee reviewed the major areas for study on the current system and decided to begin with the retail license quota system. This preliminary report discusses the history of this system, outlines the current provisions of law governing quotas, and discusses some of the criticisms concerning the system that have been raised.

Briefly, the report details the following points:

1) Montana's quota system seems to have been enacted in 1947 for the purpose of decreasing liquor consumption.

2) The law as enacted had two provisions that, today, cause concern to some people:

   a) the "grandfather" clause, which allowed all liquor licenses in existence in 1947 to be renewed; and

   b) the method by which licensees can acquire property rights in licenses, allowing their transfer and sale.

3) Several factors suggest that the quota system may not be functioning as intended:

   a) Because of the "grandfather" clause, the number of all-beverages licenses has always substantially exceeded the number allowed under the quota system. Today, there are 1,351 licenses active, even though only 883 would be allowed under the quota system. Sixty-eight percent of the state's municipalities are over the quota.

   b) The ratio of people per all-beverages license varies dramatically throughout the state: from 44 people per license in Virginia City to 1,348 people per license in Billings.

   c) Because the quota system is based on census data collected every 10 years, rapidly growing towns experience a shortage in licenses (relative to other areas) at the end of each decade.

4) Statute, custom, and case law have all seemed to invest retail licenses with the status of personal property rather than a privilege granted by the state. As personal property, licenses can be mortgaged or sold, for prices far in excess of the state's issuance price. While statute requires the transfer to be made to a person meeting eligibility requirements and to be recorded with the Department of Revenue, the state has little further control of transfers or even knowledge of the prices for which the licenses are sold.

5) Licenses' nature as personal property may pose certain problems to proposals substantially modifying the quota system.

I would like to emphasize that this is a preliminary report, which touches only briefly on areas of great complexity. Later reports will provide additional research, evidence and analysis on these points.

I. HISTORY OF MONTANA'S BEER AND ALL-BEVERAGES LICENSE QUOTA SYSTEMS

Before prohibition, the Montana legislature did not attempt to control either the number of places licensed to sell liquor or what they sold. Anybody could open a saloon, purchase his liquor from anywhere he chose, and sell for the price and during the hours he wished. The only state requirement was that each of the nearly 1600 saloons in the state pay an annual license fee of $32.00 if located outside town boundaries or $120 if within two miles of any town.[1] Legislators seemed to regard liquor sales as a source of revenue rather than an area needing control.

Prohibition, however, changed the public attitude toward liquor. In 1933, when the Montana legislature prepared for the repeal of prohibition, it opted for "the greatest possible control over the sale of liquor" in copying Alberta's monopoly system.[2] One aspect of this new control was the limitation imposed on saloons: the 1933 legislature allowed them to sell only beer by the glass and forbade the sale of hard liquor. Liquor could be purchased only in state liquor stores for consumption elsewhere.[3]

As might be expected in a state in which whiskey figured as prominently as beans on early settlers' grub lists, customers of saloons and taverns were not content with beer alone and state officials found themselves unable to enforce the law. Barely two years after the law passed, an investigating senate committee found that 67 tavern owners had filed federal tax returns as retail liquor dealers.[4] To avoid detection, these tavern owners were buying the liquor from moonshiners or out-of-state dealers, rather than from the 200 state stores.

Seeking to end the "damnable graft" in illicit liquor traffic, legislators proposed a bill in the next session to allow the sale of liquor by the glass in saloons.[5] Opponents, led by the Anti-Saloon League, argued that more outlets for liquor would increase consumption. They were not swayed by proponents' argument that rowdy saloons would be replaced by decorous cocktail lounges. Lucy McLemore, the League's leader, called the cocktail lounge "nothing more than the old saloon with women".[6] The supporters of the bill were, however, victorious. They argued that the high cost of the licenses proposed by the bill ($200-$600 per year, based on population) would make saloon owners, who wished to protect their investment, scrupulously obey state liquor laws and watch that other owners did also.[7] The bill also enacted strict eligibility requirements for saloon owners, restricted the hours during which liquor could be sold, required licensees to purchase their liquor

supplies through state stores, and forbade the sale of drinks at less than the state's posted price.[8] Increased control over liquor, rather than customer convenience, seemed to be the reason for the passage of the bill and its signing by Governor Ayers on April 4, 1937.

Anti-saloon forces were not, however, totally defeated. They began circulating a petition to place the issue of banning liquor sales in saloons on the November, 1938 ballot. They were successful in getting the issue on the ballot and in creating considerable apprehension among Montana saloon owners, but they were not able to sway voters: Montanans voted 2-1 in favor of liquor in saloons.[9]

While liquor regained its former prominence in Montana saloons, the idea that consumption of alcoholic beverages could be controlled by limiting the number of outlets was not dead. In 1947, as part of a reform movement, the legislature passed a law limiting the number of liquor licenses and beer licenses that could be issued in each city or town.*

This law, which is the basis of our current quota system, pertained only to areas within a 5 mile radius of cities or towns. Beyond this boundary, the Liquor Control Board** could issue any number of licenses "at its discretion" with "full power and authority to approve or reject any application". The limit within the areas to which the quota applied was based on the population within the city or town boundaries as shown on the most recent official federal census. The original quotas were:

Beer licenses

Municipal population	Number of Licenses
500 or less.....	2 to be used with retail liquor licenses; plus 1 additional not to be used with a retail liquor license.
More than 500, less than 2,000.....	2 for the first 500 inhabitants and 1 for each additional 500 inhabitants to be used with retail liquor licenses; plus 1 additional license for each 500 inhabitants not to be used with a retail liquor license.

---

* Prior to the 1975 revisions an all-beverages license was in fact a beer license used together with a liquor license. Liquor included wine by definition. The term all-beverages, meaning beer and liquor qas introduced for simplicity and is used here for the same reason.

**A board, composed of three members appointed by the Governor, whose job it was to oversee Montana's Liquor monopoly.

More than 2,000.....5 for the first 2,000 inhabitants and 1 for each additional 1,000 inhabitants to be used with retail liquor licenses; plus 2 licenses for the first 2,000 inhabitants or major fraction thereof and 1 license for each additional 1,000 inhabitants not to be used with retail liquor licenses.

All-beverages licenses

Municipal population	Number of licenses
1) towns of 500 or less	Not more than 2
2) 501-2,000.....2 for first 500 people; 1 for each additional 500 people	
3) over 2,000.....5 for the first 2,000 people 1 for each additional 1,000 people	

Determining whether this law did serve its purpose by decreasing alcohol consumption will require further research. However, the law as enacted did create two areas of concern today.

The 1947 legislature recognized that licenses in some cities and towns were already in excess of these quotas and enacted the following clause:

> ...licenses already issued which are in excess of said limitations and which are of issue at the date of the passage and approval of this act shall be renewable but no new licenses shall be issued until the number of licenses shall be reduced to within the above limitations.[10]

This "grandfather clause" has contributed to the degree of concern voiced by critics of the present day quota system. Their concern results from the fact that a quota will of itself create added value in a license to the extent that it truly limits the number of licenses that would otherwise be issued. This joins with a private property aspect discussed more fully below to create capital for licensees. The degree to which capital formation is promoted is related to the relative scarcity in quota areas. A great deal of value can be created in a growing area because lag time in the quota system creates a great deal of scarcity. Lesser values are created in declining areas because whole population declines, "grandfathered" licenses remain. Thus, there is a great difference in the effect on market value among various areas of the state due almost entirely to state law.

The degree of scarcity resulting from quotas seems evident from the fact that few licenses have ever been allowed to lapse and today, there are 1,351 all-beverages licenses in the state, even though the quota system allows for only 883. As discussed in section III, the renewal of licenses in existence in 1947 means that in Virginia City there is one license for every 44 people, compared to one license for every 1,348 Billings citizens.

This early legislation also created other concerns voiced by critics of the current day quota system - transfer and sale of licenses. The 1933 act licensing saloons for the sale of beer by the glass allowed saloon owners to transfer the license to other saloon owners, with the consent of the Board. This language was included in the 1937 statutes establishing liquor sales in saloons.[11] So, the tradition of sale and transfer of a license by a licensee was well established by the time the 1947 act limited licenses, making them scarce and valuable. The state's role was limited to determining that the "transferee" met the qualifications for licensure. This tradition has become well-entrenched in practice, statute, and case law in the past 30 years. Today, licenses are sold and mortgaged as personal property at prices hundreds of times higher than their original purchase price. The state must approve the transfer, but it may consider only whether the new owner meets statutory qualifications for ownership. The Department records mortgages on licenses, but it only rarely learns for what price the license was sold.[12]* License owners' substantial financial investment and their subsequent property right in them created by the tradition of transfer of license has posed a serious problem to efforts in recent sessions to repeal or substantially modify the quota system. This tradition is analyzed in Section IV.

---

*As an interesting sidelight, I checked Department records to learn what type of financial organizations hold security interests on liquor licenses in five Montana counties.

Silver Bow-6 banks, 2 business concerns, Small Business Administration, and 33 private citizens

Cascade-14 banks, 14 business, and 35 private citzens

Yellowstone-12 banks, 1 credit union, 3 companies, and 41 private citizens

Missoula-9 banks, 2 savings & loans, 7 companies, and 78 private citizens

Lewis & Clark-11 banks, 3 savings and loans companies, 3 companies, Small Business Administration, and 37 private citizens.

Of the retail licenses in these counties, 72 have a second mortgage, 12 have a third mortgage, 7 have a fourth mortgage, and 1 a fifth mortgage.

In enacting the quota system, the legislature opened a significant new area for legislation. In nearly every session since 1947, at least one bill - and most often several - are introduced to provide an exception to or further refine the quota system. Most of the bills have been unsuccessful, but there have been some significant changes, as outlined below:

1947-Beer and liquor licenses issued to posts or lodges of nationally chartered veterans' organizations or fraternal organizations in existence prior to 1944 were exempted from the quota systems. These licenses were made nontransferable and nonassignable.[13]

1963-This session significantly amended the quota system by:

1) changing the population and license figures to their current language (p.10); and

2) limiting the number of all-beverages licenses that could be issued in counties outside the five mile limit to one for each 750 rural inhabitants.[14]

1974-The legislature added a wine license amendment to retail beer licenses, allowing the sale of wine supplementary to a restaurant or prepared food business;[15]

1975-During this session, the legislature:

1) created the "floating" all-beverages license, which allows a license to be tranferred from an area with less than 125% of quota;

2) added a new license - the resort all-beverages license - and exempted it from the quota system; and

3) generally revised, clarified and recodified the alcoholic beverage control laws.[16]

1979-The legislature:

1) created a new type of license outside the quota system - the public airport all-beverages license;

2) allowed the Department to issue all-beverages licensees catering endorsements to sell liquor at special events held off the licensee's regular premises.[17]

III. PROVISIONS OF MONTANA'S CURRENT QUOTA SYSTEM

During the past 10 years, over half of the liquor sold in Montana has been sold by retail licensees:

Fiscal Year	Sales to Retail Liquor Licensees	Total Retail Sales	Sales to Licensees as % of Total Sales
1967-68	$14,700,878	$25,595,592	57.4
1968-69	15,243,408	27,055,444	56.3
1969-70	16,223,821	29,355,467	55.3
1970-71	17,664,431	31,754,624	55.6
1971-72	19,331,968	35,397,107	54.6
1972-73	20,524,777	37,873,396	54.2
1973-74	21,733,080	39,728,406	54.7
1974-75	22,919,179	42,542,020	53.9
1975-76	N/A	N/A	N/A
1976-77	27,778,282	47,563,019	58.40
1977-78	29,318,775	50,841,523	57.67
1978-79	31,945,684	55,207,711	57.86 [18]

This liquor - and large amounts of beer - were sold under a variety of licenses. As of July 23, 1979, there were 1351 all-beverages licenses, 262 municipal beer licenses, 68 county beer licenses, and 182 wine license amendments issued in Montana. Table I shows the various types of licenses within each major classification and the renewal fees the state collected from each type in fiscal 1979.

Because the statutory requirements for each type of license and the quota requirements vary, the following charts outline these provisions.

TABLE I

TYPE OF LICENSE	NO.	STATE REVENUE FROM RENEWAL FEES
All-beverage licenses		
on premise	1328	$707,100
conditional on premises	23	11,250
on premise with catering	13	12,150
veterans'	59	22,950
fraternal organizations	68	43,250
resort	6	13,450
"floater"	12	8,000
airline/carrier	5	1,800
railroad/carrier	1	300

TABLE I (Cont.)

TYPE OF LICENSE	NO.	STATE REVENUE FROM RENEWAL FEES
Beer licenses		
on premises	148	$29,800
veterans'	0	-
fraternal organizations	1	200
resort beer	0	-
on premises beer/wine	182	72,400
veterans beer/wine	0	-
fraternal beer/wine	0	-
resort beer/wine	2	800
TOTAL	1848	$923,450

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TABLE II

STATUTES GOVERNING MONTANA'S
RETAIL LICENSES [20]

I. LICENSING CRITERIA

To be eligible for the issue or transfer of any type of retail license,

1. the applicant or his immediate family may not have an interest in another all-beverage license.

2. the applicant or his immediate family may not receive financing from or have any affiliation with a manufactor, bottler, or distributor of beer, wine, or liquor.

3. the applicant must be a state resident, qualified to vote.

4. the applicant's "past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance" with all applicable laws.

5. the applicant must be "a fit and proper person", as determined by the Department.

II. ALL-BEVERAGES LICENSE

A. Quota within incorporated city or town and within a five mile radius

Inhabitants within city limits	No. of licenses
1) 500 or less	not more than 2
2) 501-3,000	3 for first 1,000 1 for each additional 1,000
3) over 3,000	1 for each additional 1,500

B. Quota outside five mile radius

Inhabitants outside city and five mile radius	No. of licenses
Each 750	1

C. Special cases in determining quota

1) If two municipalities are within five miles of each other, their combined population shall determine the total number of licenses for the two municipalities. Licenses issued in each town may be tranferred to the other municipality.

2) If a special census (paid for by an applicant) determines that the number of people living in the five mile radius exceeds the inhabitants within city boundaries, the people in the five mile radius can be included in the city's population for quota purposes.

D. "Floating licenses"

1) A license may be tranferred to a new owner and to a location outside the quota area in which it was originally issued if:

a) the total number of all-beverages licenses in the original quota area exceeded the quota by at least 25% in the most recent census;

b) the total number of all-beverages licenses in the quota area to which the license will be transferred did not exceed the area's quota by more than 25% in the most recent census; and

c) the Department finds, after a public hearing, that the "public convenience and necessity would be served by such a transfer".

2) Floater licenses may not be mortgaged or transferred to another person (except by inheritance upon the death of the licensee) and may be held only by natural persons.

E. In addition to the quota system

1) Nationally recognized veterans' and fraternal organizations that were in existence for 5 years prior to January 1, 1949, may be issued licenses in addition to those allowed under the quota system. These licenses are nontransferrable and nonassignable.

2) Any association or corporation conducting a convention, fair, civic or community enterprise or sporting event may be granted a special permit to sell beer for the duration of the event.

3) Aircraft and railroad common carriers serving Montana may be issued retail beer and liquor licenses.

4) The Department may issue an all-beverage license to an agency operating a public airport at which at least 20,000 passengers deplane if it finds, after a public hearing, that public convenience and necessity would be served by the issuing of the license.

5) Resort areas meeting the following conditions may be issued a license in addition to those allowed under the quota system.

   a) the license is "justified by public convenience and necessity";

   b) the resort is a site in Montana comprised of at least 15 contiguous acres designed for the primary purpose of providing to the general public recreational or sporting facilities and not for the sale of alcoholic beverages;

   c) the resort must have a current value of not less than $500,000, half of which is comprised of buildings;

   d) the resort must have a restaurant seating at least 100 people and hotel accommodations for 50 people;

   e) the Department determines after a public hearing that the area is a resort.

6) Catering endorsements may be issued to license holders to sell liquor at special events held off the licensees' regular premises.

F. "Grandfather" clause

All licenses in existence on March 7, 1947, even if they are in excess of the quota, may be renewed, but no new licenses may be issued in an area until the population growth brings the licenses in compliance with the quota.

G. Off-premises

No statute specifically allows or forbids holders of all-beverages licenses to sell liquor and beer for off-premises consumption. Traditionally, the Board and then the Department has allowed licensees to sell "package goods" in conjunction with their sales by the glass. The Department has, however, published a rule requiring that a licensee may not operate a packaged goods business only; provisions must be made for sales by the glass.

III. BEER LICENSE

A. Quota within incorporated city or town and within a five mile radius

Inhabitants within city limits	No. of Licenses
1) 0-500	not more than 1*
2) 501-2,000	1 for each 500 people*
3) Over 2,000	2 additional beer licenses for the first 2,000 people or "major fraction thereof"* 1 for each additional 2,000*

*may not be used in conjunction with an all-beverage license

B. Outside cities and towns and five mile radius

Department of Revenue granted discretion to determine number, provided that each license is "required by public convenience and necessity".

C. Special cases in determining quota

If two incorporated cities or towns are within five miles of each other, the quota for the two cities is determined on the basis of their combined population.

D. Wine license amendment

1) To receive a wine license amendment, an applicant must:

a) have a retail beer license for on premises consumption;

b) make a satisfactory showing that the sale of wine would be supplementary to a restaurant or prepared food business.

2) Loss of a beer license causes automatic loss of the wine license amendment.

E. In addition to the quota system

Nationally recognized veterans' and fraternal organizations that were in existence for five years prior to January 1, 1949, may be issued licenses in excess of the quota. These licenses are nontransferable and nonassignable.

F. "Grandfather" clause

All licenses in existence on March 7, 1947, even if in excess of the quota are renewable, but no new licenses may be issued until the population increases above the levels required by the quota.

G. Off-premises consumption

1) There is no quota for retail licenses to sell beer in original packages for off-premises consumption. The Department may exercise its discretion to grant a license to any person, firm or corporation:

   a) who is "fit and proper"; and

   b) whose premises is a "bona fide" grocery store or a drugstore licensed as a pharmacy. Department rules define "bona fide grocery store" as a "retail establishment where articles of staple foodstuffs, household supplies, including meats, produce, and dairy products are sold for consumption off premise".

2) Holders of retail beer licenses for on-premises consumption may sell beer for off-premises consumption.

3) The statutes are silent on sale of wine for off-premises consumption by holders of wine license amendments. The Department has published a rule forbidding it.

IV. PRELIMINARY ANALYSIS OF CRITICISMS COMMONLY RAISED CONCERNING MONTANA'S QUOTA SYSTEMS

A. License/population comparisons

The number of all-beverages licenses has always substantially exceeded the number allowed under the quota system. Most of the licenses "grandfathered-in" in 1947 have been faithfully renewed each year, keeping the licenses in most cities and towns above the quota.[21]* As Table III shows, 86 of the state's 126 incorporated cities and towns, (or 68%) have licenses in excess of the quota. Twenty-seven of the 56 counties (48%) of the counties have licenses in excess of those allowed for rural populations. In only three counties--Petroleum, Golden Valley, and Powder River--are all localities at or under the quota for all-beverages licenses.[22]

Beer licenses have not been so sought after. As Table V details, the quota system for cities allows 409 licenses statewide, but only 266 have been issued and only three cities have licenses in excess of the quota.[23] The number of county beer licenses is not limited and only 68 have been issued to date. However, Department staff note that the growing number of restaurants and the creation of the wine license amendment has increased the demand for beer licenses in recent years.[24]

Cities and towns that had an unusual number of bars per capita prior to 1947 or that have lost population in the last 30 years have much lower ratios of people per license than cities or towns that have grown rapidly. Butte, for example, has 68 all-beverages licenses in excess of the quota and has one license per every 292 inhabitants. Billings, on the other hand, is 6 licenses over quota and has one license per 1348 inhabitants. Towns in which mining activity has slowed tend, in particular, to have low ratios:

Red Lodge	1 license/176 people
Roundup	1 license/171 people
Virginia City	1 license/44 people
Anaconda	1 license/285 people
Philipsburg	1 license/186 people

Table III shows the ratio of licenses per inhabitants in many Montana towns as of the 1970 census and as calculated by the 1975 and 1980 estimates.[25] Table IV compares the ratio of population per license in selected cities and towns by population group. For

*Bozeman has 5 "floater" licenses and Billings 3.

example, under the quota system, towns of less than 500 people are allowed no more than 2 liquor licenses. Ryegate, which has 2 licensed bars, has one license per every 126 people. Virginia City has 4 licenses or one for every 44 people. Similarly, towns of 2,000 to 3,000 are allowed five licenses. Roundup has 14 licenses or one for every 171 people. Conrad has 6 licenses or one for every 518 people. The most striking differences in ratios appear in the 3,000-4,500 population group and the over 10,000 population group. Laurel, whose population was 4,454 in 1970 but now is 7,239 according to the 1980 estimate, has 6 licenses or one for every 1,206 people. Shelby, whose population was 3,111 in 1970 and is now 2,751, has 10 licenses or one for every 275 people. In towns of over 10,000 people, the disparity between the ratios in Billings and Butte has already been noted. Another interesting comparison is Billings and Great Falls, which started the 1970's at very nearly 60,000 each. Today, by the 1980 estimate, Billings has 71,440 people or one license per every 1,348 people and Great Falls has 62,147 people or one license per every 888 people.

The fact that the majority of Montana's cities and towns are over quota and that exceptionally wide disparity in the number of licenses per population exists throughout the state suggests that the all-beverages license quota system is not working to evenly distribute licenses.

B. Population growth between censuses

Population is determined for quota purposes by "the most recent official United States census authorized by Congress". Since censuses have in the past been taken each 10 years, the present quota is based on 1970 census figures. These figures will not be adjusted until mid-1981, when the 1980 census figures are officially released to the state.[26]

Population estimates, prepared by the Department of Community Affairs, show that while Montana's overall population has grown 1.5% per year since 1970, several areas have experienced a much higher growth rate:

Location	1970 census	1975 Estimate (medium)	1980 estimate (medium)	% growth 1970-1980
YELLOWSTONE COUNTY	87,367	97,300	109,073	+23.7%
Billings	61,581	63,729	71,440	+16.0
Laurel	4,454	6,459	7,239	+62.5
ROSEBUD COUNTY	6,032	10,870	11,230	+86.2
Forsyth	1,873	2,811	2,864	+52.9
GALLATIN COUNTY	32,505	37,300	40,501	+25.2
Bozeman	18,670	22,130	24,229	+28.7

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In these areas, the ratio of licenses to inhabitants is much higher than comparable areas and the pressure for licenses (and the resulting prices for licenses) has risen.

Some of the inequities in quota ratios caused by growth between censuses may be reduced in the 1980's, when the federal government will be conducting censuses each five years.[28] So, quotas will be readjusted in 1981, 1986 and 1991.

C. Transfer of licenses -- property rights

Although the 1975 legislature enacted a provision that any alcoholic beverage license is "a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled", practice, statute, and case law have all invested beer and liquor licenses with personal property status.

As previously mentioned, the 1933 "beer-by-the glass" act allowed saloon owners to transfer licenses, upon approval by the Board, and this provision was included in the 1937 liquor-by-the glass" act. When the 1947 quota legislation made licenses scarce and, therefore, valuable, this practice acquired new significance.

Initially, the Montana Supreme Court was ambivalent about the nature of the licenses. In a 1948 case, it held that the license was personal property, subject to attachment and sale.[29] However, in three 1950 cases, it held that the license was a privilege rather than a property right. The court reasoned that the license expired each year and could be suspended, revoked, or cancelled by the state. Therefore, it was not an asset of the business.[30]

In 1951, the legislature entered the debate by enacting Chapter 97, "An Act. . . Creating Certain Property Rights in License. . . Under the Montana Retail Liquor License". The act allowed licenses to be included in a decedent's estate for probate purposes and to be subject to mortgage and other valid liens.[31]

Prompted, perhaps, by this statement, the court has consistently held in recent years that a liquor or beer license is personal property. It has recognized that a license has a value above the fee paid to the state. The court has suggested that the licenses acquired this increased value because the state did not control the assignment of licenses. The state acquiesced to the transfer of licenses directly from party to party for cash with the result that the licenses acquired additional value and became "the treasure they appear to be today".[32]

Montana's 1948 case holding a liquor license to be personal property was cited in a Federal District Court opinion in California which found that a California liquor license is property within the meaning of the bankruptcy act, notwithstanding holdings by the California Supreme Court that a liquor license is a mere permit and not a proprietary right within the meaning of the due process clause of the constitution.[33]

The fifth amendment of the U.S. Constitution and Act II, Section 17 of the Montana Constitution provide that no private property may be taken without just compensation. If a liquor license is personal property and if the quota system is eliminated, the value of the license as property would be destroyed and its only value would be that of a permit. Destroying property is not a taking in the strict sense of the word but it has been held to be a taking for purposes of the fifth amendment. It is reasonable to expect that if the quota system is eliminated, tavern owners will claim that the legislation amounted to a taking. If, however, the quotas were increased the court would probably employ a balancing test to determine whether the market value of current licenses was so deminished as to amount to a taking. A large increase in the quota is more likely a taking than a small increase in the quota.

Later staff reports will provide further research and a more detailed examination of this question.

TABLE III

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County	Location	No. Over Quota	1970 Census Person/ License	1975 Estimate Person/ License	1980 Estimate Person/ License
#1	Butte	68	272	291	292
#2	Great Falls	28	846	875	888
	Belt	2	161	174	176
	Cascade	2	178	178	180
#3	Laurel	1	742	1077	1206
	Billings	6	1162	1202	1348
#4	Missoula	30	471	590	651
#5	LEWIS AND CLARK	9	445		
	Helena	14	710	775	860
	East Helena	2	330	366	406
#6	Belgrade	1	327	386	419
	Manhattan	1	272	294	319
	Three Forks	2	238	268	291
	West Yellowstone	4	126	132	144
#7	Kalispell	9	554	616	678
	Columbia Falls	7	241	290	318
	Whitefish	5	335	422	465
#8	Lewistown	5	536	573	578
#10	CARBON	6	371		
	Bridger	2	179	237	246
	Fromberg	1	121	146	152
	Joliet	1	137	166	172
	Red Lodge	10	141	169	176
#11	PHILLIPS	1	660		
	Malta	5	244	264	269
#12	HILL	1	726		
	Havre	8	587	608	625
#13	Darby	1	179	179	189
	Hamilton	7	227	317	334
	Stevensville	3	166	195	205
#14	Miles City	10	475	499	512
#15	Polson	5	274	345	369
	Ronan	4	192	264	281
	St. Ignatius	4	154	199	212
#16	Glendive	3	631	669	676
#17	Wolf Point	3	387	381	398
	Culbertson	1	274	258	270
	Poplar	2	278	339	354
#18	BEAVERHEAD	11	219		
	Dillon	8	325	332	348
#19	Fort Benton	3	311	306	305
	Big Sandy	2	207	201	200
#20	VALLEY	2	661		
	Glasgow	5	427	484	529
	Nashua	1	171	205	224
	Opheim	1	102	122	134
#21	TOOLE	8	187		
	Kevin	1	83	77	72
	Shelby	5	311	295	275

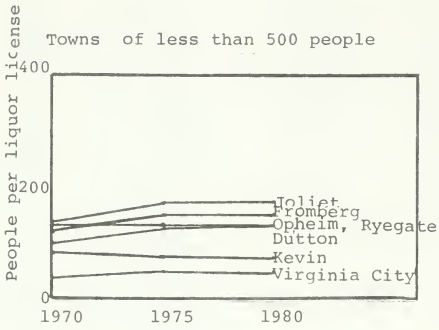
County	Location	No. Over Quota	1970 Census Person/ License	1975 Estimate Person/ License	1980 Estimate Person/ License
#22	Hardin	3	228	240	258
#23	Roundup	10	99	165	171
#24	BLAINE	1	637		
	Chinook	4	259	263	268
	Harlem	1	274	291	295
#25	MADISON	9	240		
	Ennis	2	125	150	169
	Sheridan	2	159	188	182
	Twin Bridges	1	204	196	190
	Virginia City	2	37	45	44
#26	Conrad	2	462	503	518
	Valier	1	217	209	215
#27	Fairview	1	319	349	358
	Sidney	2	568	580	596
#28	POWELL	7	235		
	Deer Lodge	3	538	605	648
#29	Forsyth	6	245	281	286
#30	Anaconda	24	296	292	285
#31	TETON	2	575		
	Choteau	1	397	429	461
	Fairfield	1	213	237	255
#32	STILLWATER	5	384		
#34	Sheridan	1	641	188	182
	Plentywood	2	397	427	397
#35	SANDERS	5	403		
	Hot Springs	1	221	264	282
#36	JUDITH BASIN	3	394		
	Stanford	1	168	173	168
#37	DANIELS	2	471		
	Scobey	3	248	255	249
#38	GLACIER	2	635		
	Browning	1	425	523	542
	Cutbank	6	364	352	365
#39	Baker	2	431	427	433
#40	SWEETGRASS	2	463		
	Big Timber	3	265	284	275
#41	McCONE	2	478		
	Circle	2	241	278	261
#42	CARTER	1	647		
	Ekalaka	2	166	164	160
#43	BROADWATER	4	231		
	Townsend	2	274	306	329
#44	WHEATLAND	1	497		
	Harlowton	3	229	226	186
#45	PRAIRIE	1	441		
	Terry	1	290	329	329
#46	GRANITE	3	288		
	Drummond	2	124	124	122
	Philipsburg	3	188	189	186
#47	MEAGHER	4	184		
	White Sulphur Springs	4	171	200	191
#48	Chester	3	187	205	210
#49	PARK	11	254		

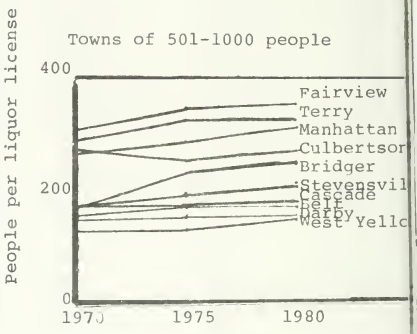
County	Location	No. Over Quota	1970 Census Person/ License	1975 Estimate Person/ License	1980 Estimate Person/ License
	Livingston	12	362	408	438
#50	Jordan	1	176	181	180
#51	JEFFERSON	2	572		
	Boulder	1	336	358	388
	Whitehall	2	207	236	255
#52	Wibaux	3	129	133	131
#54	MINERAL	8	200		
	Superior	2	248	295	321
#56	LINCOLN	1	723		
	Libby	1	548	605	582
	Troy	3	174	137	131
TOTAL STATE		468			

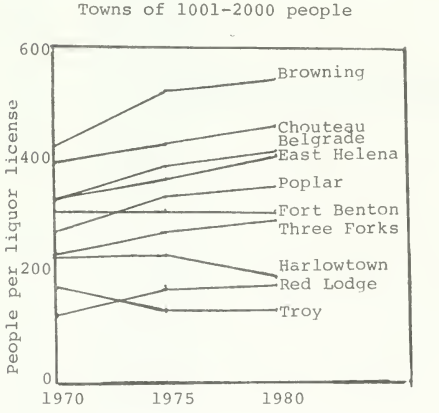
Source: Department of REvenue license data
DCA, Montana Population Projections, 1975-2000 (1977), pp. 24-33.

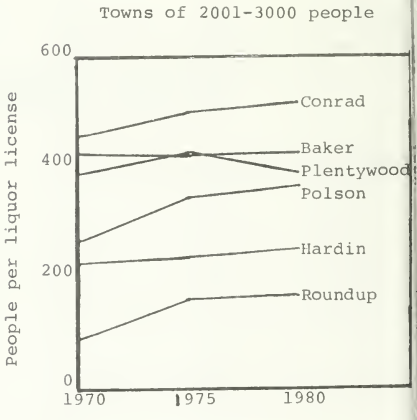
TABLE IV

POPULATION PER EACH ALL-BEVERAGES LIQUOR LICENSE









Source: Calculated from DOR License data and DCA population estimates

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TABLE IX (cont.)

POPULATION PER EACH ALL-BEVERAGES LIQUOR LICENSE

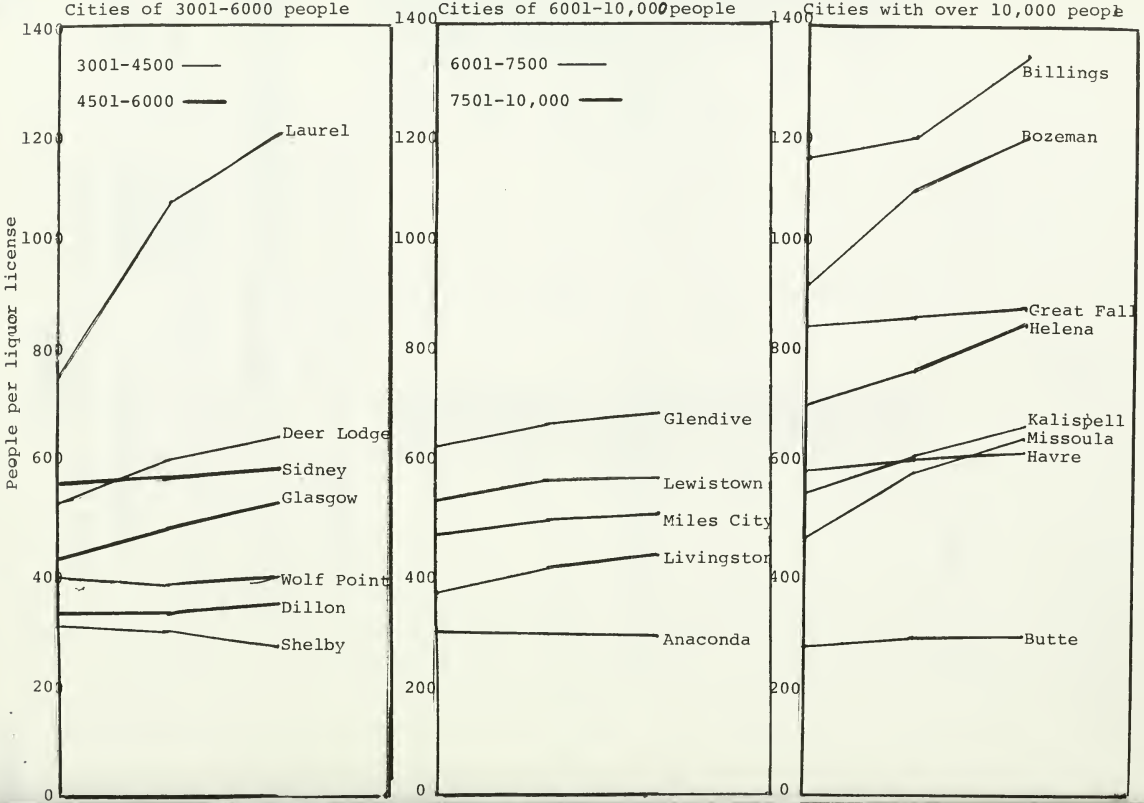

TABLE V

LOCATIONS OVER THE BEER LICENSE QUOTA

County	Location	No. Over Quota
#3	Billings	1
#4	Missoula	1
#7	Columbia Falls	1

TOTAL NO. OF CITY BEER LICENSES ALLOWED UNDER QUOTA 409
TOTAL NO. OF CITY BEER LICENSE ISSUED 266
TOTAL NO. AVAILABLE 143

LOCATIONS WITH WINE LICENSE AMENDMENTS

Butte	4	VALLEY	2
Great Falls	14	Glasgow	1
Laurel	2	Shelby	1
Billings	17	MUSSELSHELL	1
MISSOULA	2	Ennis	1
Missoula	9	Conrad	1
LEWIS & CLARK	3	Sidney	1
Helena	15	Deer Lodge	1
GALLATIN	3	ROSEBUD	1
Belgrade	1	TETON	1
Bozeman	11	Choteau	1
West Yellowstone	1	Columbus	1
FLATHEAD	9	Plentywood	1
Kalispell	8	Sanders	1
Columbia Falls	1	Thompson Falls	2
Whitefish	5	Stanford	1
Lewistown	6	GLACIER	2
Bridger	1	Cutbank	1
Red Lodge	3	Baker	3
Havre	2	Big Timber	1
RAVALLI	2	Circle	1
Hamilton	2	Townsend	2
Miles City	5	GRANITE	2
LAKE	1	Drummond	1
Polson	3	MEAGHER	1
Ronan	1	PARK	8
Glendive	1	Livingston	3
Wolf Point	1	LINCOLN	1
Dillon	2	Eureka	1
Lima	1	Libby	5
		TOTAL	184

FOOTNOTES

1. Acts. . .Passed by the Fourth Legislative Assembly, 1867, P. 237

2. Larry Quinn, Politicians in Business, A History of the Liquor Control System in Montana, University of Montana: 1970), P. 6

3. Chapter 106, Laws of 1933

4. Senate Journal of the Twenty-fourth Legislative Assembly (1935), pp. 581-2.

5. The Billings Gazette, 26 February 1937, quoted in Quinn, p. 36

6. Quinn, p. 37

7. Quinn, p. 36

8. Chapter 85, Laws of 1937

9. Quinn, p. 38

10. Chapter 226, Laws of 1947

11. Chapter 46, Extraordinary Legislature of 1933; Chapter 84, Laws of 1937.

12. State ex rel. McCarter v. Corwin, 177 Pac (2d) 189. State ex rel. McCarter v. Harris, 112 M 344. Information from Thomas Mulholland, Assistant Administrator, Liquor Division, Department of Revenue. In recording liens or mortgages, licensees occasionally list the market price of the license. Most often, however, they include the license with other assets of the business, rather than itemizing the cost of the license.

13. Chapters 164 and 165, Laws of 1949.

14. Chapter 217, Laws of 1963.

15. Chapter 340, Laws of 1974.

16. Chapter 387, Laws of 1975

17. Chapters 139 and 461, Laws of 1979

18. Information from Audit and Accounting Division, DOR

19. Printout from Licensing Bureau, Liquor Division, DOR, showing details of all retail licensees.

20. These provisions are contained in Chapter 4, Title 15, MCA. The Department of Revenue's administrative rules concerning licenses appear in ARM in sub-chapter 5, Chapter 12, Title 42.

21. Information from Tom Mulholland. Montana Legislative Council, Alcoholic Beverage Control Statutes (1974), p. 5.

22. DOR printout

23. Ibid

24. Information from Tom Mulholland

25. Estimates taken from the "medium" range shown in Department of Community Affairs, Montana Population Projections, 1975-2000 (1977), pp. 24-33.

26. Information from Thomas Dundas, Administrator, Research and Information Division, DCA.

27. Montana Population Projections, pp. 24-33

28. Information from Tom Dundas

29. Cort Harrington, Legislative Council staff attorney, researched these cases and provided the basic analysis in this section. Stallinger v. Gross, 121 Mont. 437, (1948)

30. Perry v. Luding, 123 Mont. 570 (1950); Light v. Zeiter, 124 Mont 67 (1950). Sullivan v. Marsh, 124 Mont 415 (1950)

31. Chapter 97, Laws of 1951

32. Gaskill v. Severovic, 149 Mont 340 (1967); Beard v. McCormick, 147 Mont 361 (1966); State ex rel. Victor's, Inc. v. District, 169 Mont. 110 (1976).

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0031

RESEARCH MEMORANDUM

SUBJECT: ALCOHOLIC BEVERAGE LICENSING IN OTHER STATES: QUOTAS, MARKET VALUE, AND TRANSFERS

DATE: November 1, 1979

PREPARED FOR: Revenue Oversight Committee

PREPARED BY: Teresa Olcott Cohea, Staff Researcher

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I. SUMMARY

A. State legislatures have very broad authority to control the sale of alcoholic beverages through licensing. This power springs from states' reserved police powers and the 21st amendment. The only boundaries on this discretion are constitutionally protected individual rights.

B. Most states limit the number of on-premises retail liquor licenses that may be issued by population or by allowing licensing authorities to exercise their discretion.

C. In all of the states in which population is used as a basis, the number of licenses issued is in excess of the quota, due to "grandfather" clauses, exceptions to the quota system, and decisions not to reduce the number of licenses when population drops in an area.

D. Most quota states consider liquor licenses as a privilege, rather than personal property, and do not allow their mortgage, attachment, or inheritance.

E. Irrespective of whether a state considers liquor licenses a privilege or property, the licenses acquire a value in excess of their issuance fee. This value seems to spring from the transferability of and the demand for licenses.

F. Competition for liquor licenses has been reduced in some states that base their quota on population by:

-- using annual population estimates rather than the decennial federal census to determine the number of available licenses;

-- exempting certain liquor licenses -- such as licenses for convention centers and restaurants -- from the quota system; and

-- allowing unlimited beer and wine licenses.

Note: The information in this report was gathered by reading other states' statutes and case law, using information from the Distilled Spirits Council of the United States (DISCUS) and the National Alcoholic Beverage Control Association (NABCA), and talking with license administrators in Idaho, Wyoming, Oregon, California, Washington, South Dakota, Montana, and North Dakota. It is intended to serve as general background information to the Committee, not as an exhaustive or definitive study of the complex and varied liquor laws in the 50 states.

II. STATES' POWERS OVER ALCOHOLIC BEVERAGES LICENSING

The following brief discussion of the boundaries on states' authority to control the sale of alcoholic beverages through licensing was prepared to serve as background for members' consideration of other states' licensing laws and discussions of possible changes in Montana's quota system.

General

States have very broad authority to control the sale of intoxicating liquors. This power derives from two sources: the states' police powers and the language of the 21st Amendment to the U.S. Constitution.

In nearly every state, courts have ruled that:

> ...the liquor traffic is admittedly dangerous to public health, safety, and morals and is therefore essentially within, and its regulation or prohibition is fully justified under, the police power. This power is an incident of society's right to self-protection; it rests upon the right of the state to care for the health, morals, and welfare of the people, and extends to everything prejudicial thereto.[1]

Since police powers have resided primarily in the states throughout our history and were not surrendered to the federal government, the state has "far broader power and greater latitude to regulate and restrict the use, distribution, or consumption of liquor than to regulate or restrict ordinary business, because of the effect of the former on the health and welfare of the public."[2]

Courts have universally held that state legislatures are the proper bodies to exercise this broad power and refused to substitute their own judgment. The only boundaries on legislatures' discretions, courts have held, are the provisions of state constitutions and individual rights secured by the U.S. Constitution.[3]

The Montana Supreme Court concisely restated the source and broadness of the state legislature's power in a 1935 decision:

> The right to manufacture and traffic in intoxicating liquors is one which is exercised subject to the regulation and control of the police power of the state; a power of which the legislature cannot divest itself and such body is the exclusive judge of the manner in in which police power shall be exercised, and its actions shall be liberally construed.[4] (emphasis added)

The 21st Amendment to the U.S. Constitution provides another strong plank for states' authority to control the sale of alcoholic beverages:

> The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Court have held that this amendment gives states exclusive powers over the intrastate commerce and regulation of intoxicating beverage: "the Federal Government does not have the power to regulate the sales of liquor by one citizen to another within the territorial limits of the state...[except] in places over which it exercises exclusive authority, such as government military reservations, and with the Indian tribes."[5] The only boundaries on the states' discreation are, once again, states' constitutions and individual rights protected by the U.S. Constitution.[6]

Montana

While Montana's constitution does not specifically provide for state control of liquor, our statutes are very clear on this subject:

> 16-1-103. Policy as to retail sale of liquor. It is the policy of the state that it is necessary to further regulate and control the sale and distribution of alcoholic beverages within the state and to ensure the entire control of the sale of liquor in the department of revenue.

In 1952, the Supreme Court upheld the State Liquor Control Act and the Montana Beer Act as a proper exercise of the state's police power.[7]

III. OTHER STATES' LICENSING LAWS*

Each of the 50 states has a series of statutes regulating the issuance of licenses for the retail sale of liquor. All states seem to regard licensing as a vital element of liquor control: "the two pillars supporting the structure of alcoholic beverage control are licensing and enforcement."[8] In enacting licensing laws, many state legislatures have made reference to their duty to protect the welfare, health, peace, morals and safety of the public. A considerable number also forthrightly state that liquor license laws are intended to promote temperance or prohibit saloons.[9]

As the following tables suggest, the states have a wide range of laws, regulations, and customs governing this area. In Tables I-IV (pp. 11-16), I have grouped these states into four categories:

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*Although many of the general remarks in this memorandum apply to all types of alcoholic beverages licenses, this section deals primarily with licenses for the on-premises retail sale of distilled spirits. Due to time constraints, I have not included information on beer and wine regulation in the states.

Table	Category	No. of States
I	No on-premise licenses issued.	5
II	No statutory limit on number of licenses.	5
III	Licenses limited by discretion of licensing authority.	20
IV	Licenses limited by population:	
	A. Statewide quota	2
	B. Countywide	4
	C. City and county quotas	15

States' Right to Limit Licenses

As these tables show, most states limit the number of licenses that may be issued. This right to limit the number of licenses is well-established; it has been "universally upheld against attacks on the grounds that they deny equal protection of the laws, create an illegal monopoly, discriminate in favor of a limited number of licensees, and amount to class legislation."[10]

States' Reasons for Limiting Licenses

The purposes of limiting licenses differs, of course, from state to state. Commonly cited reasons are:

1) control over the types of persons licensed

In 1973, a joint committee composed of state liquor licensing authorities, a representative of the federal Bureau of Alcohol, Tobacco, and Firearms, and alcoholic beverage trade association personnel declared that:

> Licensing is a device to restrict participation in the alcoholic beverage business to honest, able and qualified business people, and to eliminate anti-social or otherwise unqualified persons.[11]

State laws seem to bear this out. Thirty-eight require that the applicant be of good repute and sound character and 32 that he never have had a felony conviction.[12]

2) aid enforcement of liquor and vice laws by guaranteeing licensees a certain financial security

After studying states' liquor laws, the 1973 joint committee concluded

> "...Most states attempt to keep the number of licensed outlets within such limits that operating licensees are not in perennial financial distress because of extensive competition, since this could lead to the social evils that the liquor laws seek to eliminate."[13]

In 1974, the director of Montana's Department of Revenue concurred when he suggested that our quota system can be viewed as means of preventing violations: "Relatively high demand should help keep tavern operations solvent. A businessman making good money legitimately should be less inclined to gain from illegitimate sales."[14]

3) promote temperance by limiting liquor outlets

Although no legislative records contain a statement of why Montana's liquor quota system was enacted, one historian of the Liquor Control Board thinks its enactment "seemed to be based upon the assumption that the more retail outlets in existence the greater would be the consumption of alcohol and the evils of intemperate use."[15]

4) help small businessmen compete against large chains

The head of the Idaho Licensing Bureau feels that the quota system keeps "large chain operations" from controlling the retail liquor trade in Idaho by ensuring that the small businessmen who have existing licenses can retain them and other small businessmen can compete for new licenses on a par with these large operations.[16]

In Oregon, however, the quota system has had the opposite effect. Statute requires the Oregon Liquor Control Commission (OLCC) to use its power to issue licenses "to promote Oregon industry" and the Commission has interpreted this to require that licenses be issued to the business that will employ the most workers and bring in the most tourist industry. In recent years, this practice has led to widespread complaints that the quota system discriminated against small business men and to investigations of the OLCC by the Attorney General and a Blue-Ribbon Commission.[17]

This report does not explore whether limitations on licenses achieve these purposes.

Quotas of Licenses Based on Discretion

Nineteen states allow either local authorities or a state licensing authority the discretion to determine the number of retail liquor licenses that may be issued in an area. Usually, the state law requires the licensing agency to determine whether there are "sufficient" licenses to serve the public interest.

Courts have generally upheld the decisions of such bodies as proper exercise of their discretion. However, courts have held limitation unreasonable and invalid when the quota is based on "a variable basis without being governed by considerations of public health, morals, and general welfare."[18]

The data contained in Table V shows that these states do not have more licenses per population than states in which the quota is based on population. Local governments' discretionary limits can cause as much competiton for licenses as in quota states.

Quota of Licenses Based on Population

As Table IV shows, twenty-one quota states statutorily limit their licenses based on populations. Courts have "without exception" upheld these provisions as proper exercises in police power.[19]

Many states, like Montana, rely on the federal census to determine the number of licenses available. However, several state legislatures have found that the "lag time" in the ten years between censuses created too much presure for licenses in growing areas and have recently enacted amendments allowing population estimates to be used in setting the number of licenses. The latest Washington legislature, for example, changed their statutes to allow annual population estimates prepared by the Secretary of State to be used. A member of the Washington Liquor Commission reports that "this has really taken the pressure off the quota system", since the Commission was able to issue many new licenses in growing counties.[20] Oregon law allows their Liquor Control Commission to use quarterly population estimates prepared by the state university, but the Commission currently uses six-month updates only. Idaho and California use annual estimates prepared from Department of Commmerce data and Wyoming uses an estimate half-way between the federal censuses.[21]

California has an interesting method for awarding new licenses issued due to population growth: a lottery of all persons in the county desiring a license and meeting the statutory requirements. A similar scheme was proposed in Oregon last session but not adopted.[22]

Two states have a statewide quota system, in which the population of the state as a whole determines the number of licenses that may be issued. Most other states limit the licenses in each county or city by the population in that government unit.

Like Montana, most states have a much higher number of liquor licenses than allowed under the quota system for the following reasons:

1) grandfather clause

All population-quota states except Oregon* created an exemption for licenses in existence on the effective date of the quota legislation and have allowed these licenses to be renewed or transfered. So, the total number of licenses issued in these states exceeds the number that would have been allowed under the quota system. However, many of the states say that these "grandfathered" licenses must be counted in the quota before new licenses based on population can be issued. Eventually, therefore, the number of licenses will conform to the quota system when the population grows sufficiently.[23]

2) no cancellation of licenses when population decreases

Statutes in California and several other states provide that the number of licenses issued in a location will not be diminished even if the population decreases. This means that "dying" towns may have licenses in excess of the quota. In Montana, statute (16-4-201) provides only that "grandfather licenses" may be renewed regardless of decreases in population, but, interestingly enough, the statutes are silent on the nonrenewal of other licenses due to decrease in population in a city or county. Liquor Division staff says, however, that it does not plan to cancel any licenses due to population decreases.[24]

3) exceptions to the quota system

As Table IV shows, most states exempt some licenses from the quota system. Wyoming, Arizona, and Florida, for example, exempts restaurants, convention facilities, and club licenses from the quota system.** California has over 1,000 club licenses and 200 seasonal licenses outside the quota system. Montana has 59 veterans' club licenses, 68 fraternal organizations, and 6 resort licenses in excess of the quota. Administrators note that these exceptions reduce the competition for licenses somewhat. In contrast, South Dakota has no exceptions to its quota system and competition for existing licenses is keen in growing cities.

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*Oregon's law requiring liquor licenses and the quota were enacted simultaneously, in 1952.

**In Wyoming, statutes used to limit the number of restaurant liquor licenses a local government could issue to 25% of the number of all-beverages licenses issued in their jurisdiction. However, the recent legislature increased this number to 50% of the outstanding all-beverage licenses. [In both cases, the restaurant liquor licenses are outside and in addition to quota system.]

> Demand for licenses also seems to be somewhat reduced when additional types of beverage licenses are readily available. In Wyoming, there are an unlimited number of county malt beverage licenses and in Oregon and California an unlimited number of beer and wine licenses. However, administrators note that all-beverage licenses are still highly prized.[25]

In addition, some states have additional means of issuing more liquor licenses than allowed under the quota system. In response to concerns about the competition for liquor licenses, the 1979 Oregon legislature added 100 all-beverage licenses in excess of those allowed under the quota and created 75 licenses in a new category. In Minnesota, statutes allow the local government unit to submit a referendum to the people asking whether a certain number of licenses in excess of the quota may be issued and, upon a favorable vote of the majority voting, issue these licenses.[26]

Montana statutes appear to allow more license per person than other quota states. Most states allow one license for every 1,000-2,000 people, while Montana allows one for every 750 people in the counties and one license for every 250-1,500 in cities. Table V suggests that Montana also has more on-premise licenses per person than most non-quota states. In 1977, Montana had one on-premise retail license for every 513 people, while the average for license states was 1/1,756 and for other control states 1/1,527. Only two states -- Wisconsin and Vermont -- had fewer people per license than Montana.

Montana's quota system is also more complex than most states'. Many states do not differentiate between county and city licenses, as Montana does, or vary the number of persons necessary for the next license. However, Montana's quota law is by no means the most complex: Minnesota seems to win that honor!

Control of Licenses Through High License Fees

Some have suggested that one possible solution to the short shpply of liquor licenses in growing cities would be for the state to offer additional licenses for the "going price" on the private market in each city.* However, it has been argued that courts have held high license fees as an abuse of the states' power to control licenses.

My research suggests that state legislatures may set a high fee on liquor licenses (as a method of controlling their sales).

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*Additional elements of this alternative may require research: whether it constitutes "specia legislation", etc.

This power flows from states' broad police powers. Although some plaintiffs have tried to contend that a license fee was a tax and therefore subject to constitutional tests of uniformity and equality, state courts have consistently held that the fee is an exercise in police power and not subject to these tests. The only requirement is that there is no discrimination in the size of the fee among people granted the license.[27]

Thus, the North Dakota Supreme Court ruled that the amount of a license fee is up to the discretion of the legislature and "it may be made so high as to operate as an effective restriction on the business, or even so as to be practically prohibitive."[28] A Wisconsin court went even further: "the conditions coupled with the license can be so burdensome that the business cannot be conducted successfully thereunder."[29]

TABLE I

States In Which No On-Premise Liquor Licenses Are Issued

State	Special Provisions
Kansas	
North Carolina	
Oklahoma	
Tennessee	Local option election for liquor by the drink.
Utah	State stores may be established on the premises of restaurants and clubs for sale of miniatures, which must be opened at table.

TABLE II

States With No Statutory Limits on Number of Retail Licenses For On-Premise Consumption of Distilled Spirits

States	Special Provisions
Arkansas	Licenses issued only to restaurants, hotels, motels, and private clubs.
Connecticut	
Georgia	
South Carolina	Licenses issued to restaurants, hotels, and private clubs only.
West Virginia	Licenses issued to private clubs only.

Source: State statutes and summary in DISCUS, License Restrictions by State (June 1978).

TABLE III

States In Which Licensing Authority Has Discretion To Determine the Number of Licenses

State	Special Provisions
Alabama	Local approval required for hotel, club, and restaurant licenses.
Colorado	State may refuse to issue a license if licenses in the locality "adequate for the reasonable needs of the community."
Delaware	State may refuse a license if there are "sufficient" licensed premises in the locality.
Hawaii	Each county commission may determine the number of licenses in county, based on the public interest.
Illinois	Local governing body may determine the number.
Iowa	Local government sets limits.
Louisiana	Local approval of state permits.
Maine	Local approval.
Maryland	County commissioners determine what is "sufficient" number of licenses for each neighborhood.
Mississippi	Statute forbids the state tax commission to impose any quota for permits based on population. However, commission may refuse a permit because of the undesirability of the proposed location.
Missouri	City commission may limit licenses if its intent is not to 1) create a monopoly, or 2) "prohibit rather than reasonably controlling" liquor sales.
Nebraska	
Nevada	

State	Special Provisions
New Hampshire	State shall "take into consideration" the number of licenses already issued in the locality.
New York	Liquor Authority shall limit the number of licenses in each class.
North Dakota	
Texas	
Vermont	
Virginia	Commission may refuse to issue a license which would, in its judgment, be detrimental to the "interest, morals, safety, or welfare of the public."

Source: State statutes and summary contained in DISCUS, License Restrictions by State (June 1978).

TABLE IV

STATES IN WHICH THE NUMBER OF LIQUOR LICENSES ISSUED IS STATUTORILY LIMITD, BASED ON POPULATION

STATEWIDE QUOTAS

State	Licenses/People	Special Provisions
Michigan	1/1,500	Licenses for state airports, colleges, & universities, civic centers, and certain resorts outside quota system.
Oregon	1/2,000	100 extra licenses just added; seasonal ski resort licenses exempt.

COUNTYWIDE QUOTAS

State	Licenses/People in County	Special Provisions
Arizona	1/1,000 for first 24,000 in county; 1/2,000 for population from 25,000 to 100,000; and 1/2,500 for population over 100,000 in county.	Club, hotel, motel, and restaurant licenses are not counted in determining quota limits.
California	1/2,000 in county.	License issued to premises owned by any political subdivision exempt.
Florida	1/2,500 in the county; at least 3 licenses allowed per county.	Licenses issued to restaurants, hotels, motels, and condominiums having at least 100 guest rooms are not included in the quota limits.
New Jersey	1/3,000; cities of less than 1,000 may issue 1 license of each type.	

TABLE IV (Continued)

QUOTA FOR MUNICIPALITY OR MUNICIPALITY AND COUNTY

State	Licenses/People Inside City Limits	Licenses/People Outside City Limits	Special Provisions
Alaska	1/1,500	1/1,500 within a 5-mile radius of proposed location.	Resort licenses exempted from quota.
Idaho	1/1,500; at least 2 per each city.		Golf courses outside city limits, public airports, lake resorts, ski resorts, and convention halls are exempted from license limitations.
Indiana	1/1,000		
Kentucky	In counties with cities of the first class, 1/1,500; in all other counties, 1/2,500.		
Massachusetts	For all cities except Boston 1/1,000 up to 25,000; 1/10,000 for population over 25,000; all cities allowed at least 14. Boston is allowed 850 licenses.		
Minnesota	1st class city - 1/1,500; maximum 200 licenses 2nd class city - 18 licenses plus 1 additional for every 2,500 people in excess of 45,000. 3rd class city - 12. 4th class city - 7.	3 licenses plus 1/2,000 in an unincorporated area of a county.	

TABLE IV (Continued)

State	Licenses/People Inside City Limits	Licenses/People Outside City Limits	Special Provisio
Minnesota	Cities of 5,000 - 10,000 - 6. Cities of 2,500 - 5,000 - 5. Cities of 500 - 2,500 - 4. Cities of less than 500 - 3.		
Montana	Within city and 5-mile radius: 500 or less - 2. 500 - 3,000 - 3/1,000, 1 for each additional 1,000. Population over 3,000 - 5/first 3,000; 1/each additional 1,500.	1/750	Resort, airport, and fraternal licenses exempt from quota.
New Mexico	1/2,000 or major fraction thereof.	1/2,000 or major fraction thereof of county population excluding the cities' population.	Director may issue a rural license if the nearest license is 10 miles away, regardless of population. Club licenses are not included in quota.
Ohio	1 D-1 or D-2 permit/2,000. 1 D-3, D-4, or D-5 permit/3,000.		

State	Licenses/People Inside City Limits	Licenses/People Outside City Limits	Special Provisions
Pennsylvania	1/2,000		Airport restaurants, municipal golf courses, hotels, and clubs are exempt from quotas; Board may issue additional licenses in resort areas.
Rhode Island	1/1,000 (Class C) license; 1/6,000 (Class A). 1/4,000 if town less than 20,000. 2 Class A per every town.	Same as for cities; population in cities may not be counted.	Local government may set lower number.
South Dakota	3/1,000; 1/each additional 1,500 or fraction thereof.		
Washington	1/1,500		
Wisconsin	1/500 or fraction thereof (one license per each town).		
Wyoming	500 or less - 2. 500 - 9,500 - 1 additional license/ 500 or fraction thereof. Over 9,500 - 1 additional license/ each full 4,000 over 9,500.	1,500 for population excluding city residents; no more than 3 licenses may be granted within a 5-mile zone surrounding towns.	Resort, convention center, and restaurant licenses exempt. Local government may further limit number.

Source: State statutes and summary contained in DISCUS, License Restrictions by State (June 1979).

TABLE V
RETAIL LICENSES FOR SALE OF DISTILLED SPIRITS

STATE-BY-STATE COMPARISON FOR 1977

State	Number of Licenses				Estimated [1] Population July 1, 1977	Number of Persons per License			
	On-Premise	Off-Premise	On and Off-Premise	Total Licenses		Per On-Premise	Per Off-Premise	Per On and Off-Premise	Per Total Licenses
LICENSE STATES									
Alaska	699	413	.....	1,112	407,000	582	985	.....	366
Arizona	969	1,162	1,376	3,507	2,296,000	2,369	1,976	1,669	655
Arkansas	392	640	.....	1,032	2,144,000	5,469	3,350	.....	2,078
California	13,027	10,880	.....	23,907	21,896,000	1,681	2,013	.....	916
Colorado	2,985	1,165	.....	4,150	2,619,000	877	2,248	.....	631
Connecticut	2,945	2,016	.....	4,961	3,108,000	1,055	1,542	.....	626
Delaware	347	293	194	834	582,000	1,677	1,986	3,000	698
Dist. of Columbia	681	370	.....	1,051	690,000	1,013	1,865	.....	657
Florida	2,365	508	3,585	6,458	8,452,000	3,574	16,638	2,358	1,309
Georgia	1,530	1,369	.....	2,899	5,048,000	3,299	3,687	.....	1,741
Hawaii	898	658	.....	1,556	895,000	997	1,360	.....	575
Illinois	.....	.....	23,371	23,371	11,245,000	.....	.....	481	481
Indiana	1,159	1,793	3,271	6,223	5,330,000	4,599	2,973	1,629	857
Kansas	964	1,211	.....	2,175	2,326,000	2,413	1,921	.....	1,069
Kentucky	1,011	842	103	1,956	3,458,000	3,420	4,106	33,573	1,768
Louisiana	.....	2,271	6,141	8,412	3,921,000	.....	1,727	638	466
Maryland	499	1,006	2,986	4,491	4,139,000	8,295	4,114	1,386	922
Massachusetts	5,754	1,481	.....	7,235	5,782,000	1,005	3,904	.....	799
Minnesota	2,015	682	1,084	3,781	3,975,000	1,973	5,828	3,667	1,051
Missouri	.....	3,130	3,205	6,335	4,801,000	.....	1,534	1,498	758
Nebraska	318	519	1,799	2,636	1,561,000	4,909	3,008	868	592
Nevada	1,020	671	634	2,325	633,000	621	943	998	272
New Jersey	1,463	1,987	8,439	11,889	7,329,000	5,010	3,688	868	616
New Mexico	155	83	1,223	1,461	1,190,000	7,677	14,337	973	815
New York*	23,389	4,666	.....	28,055	18,084,000	773	3,876	.....	645
North Dakota	6	88	1,053	1,147	653,000	108,833	7,420	620	569
Oklahoma	.....	848	.....	848	2,811,000	.....	3,315	.....	3,315
Rhode Island	1,509	312	.....	1,821	935,000	620	2,997	.....	513
South Carolina	1,065	1,206	.....	2,271	2,876,000	2,700	2,385	.....	1,266
South Dakota	815	585	.....	1,400	689,000	845	1,178	.....	492
Tennessee	652	542	.....	1,194	4,299,000	6,594	7,932	.....	3,601
Texas	4,977	3,053	.....	8,030	12,830,000	2,578	4,202	.....	1,598
Wisconsin	12,771	1,555	.....	14,326	4,651,000	364	2,991	.....	325
TOTAL LICENSE	86,380	48,005	58,464	192,849	151,655,000	1,756	3,159	2,594	786
CONTROL STATES									
Alabama	1,879	124	.....	2,003	3,690,000	1,964	29,758	.....	1,842
Idaho	764	131	.....	895	857,000	1,122	6,542	.....	958
Iowa	4,462	211	.....	4,673	2,879,000	645	13,645	.....	616
Maine	920	113	.....	1,033	1,085,000	1,179	9,602	.....	1,050
Michigan	8,828	3,268	.....	12,096	9,129,000	1,034	2,793	.....	755
Mississippi	437	601	.....	1,038	2,389,000	5,467	3,975	.....	2,302
Montana	1,484	147	.....	1,631	761,000	513	5,177	.....	467
New Hampshire	924	71	.....	995	849,000	919	11,958	.....	853
North Carolina	.....	344	.....	344	5,525,000	.....	16,061	.....	16,061
Ohio	9,601	404	7,623	17,628	10,701,000	1,115	26,488	1,404	607
Oregon	1,153	194	.....	1,347	2,376,000	2,061	12,247	.....	1,764
Pennsylvania	19,490	738	.....	20,228	11,785,000	605	15,969	.....	583
Utah	254	105	.....	359	1,268,000	4,992	12,076	.....	3,532
Vermont	977	62	.....	1,039	483,000	494	7,790	.....	465
Virginia	1,113	253	.....	1,366	5,135,000	4,614	20,296	.....	3,759
Washington	1,945	318	.....	2,263	3,658,000	1,881	11,503	.....	1,616
West Virginia	1,039	161	.....	1,200	1,859,000	1,789	11,547	.....	1,549
Wyoming	154	8	610	772	406,000	2,636	50,750	666	526
TOTAL CONTROL	55,424	7,253	8,233	70,910	64,835,000	1,170	8,939	7,875	914
GRAND TOTAL	141,804	55,258	66,697	263,759	216,490,000	1,527	3,918	3,246	821

SOURCE: DISCUS, Retail Outlets for the Sale of Distilled Spirits (1977)

IV. NATURE OF LIQUOR LICENSES AND THEIR MARKET VALUE

Nature of Licenses

The nature of liquor licenses has been the subject of litigation in almost every state. License holders and those seeking licenses have been vitally concerned whether a license was a privilege or a property right. This question is significant because it determines, in certain circumstances, the value of the license and what may be done with it.

Very broadly, if a license is a personal privilege, it

1) is not subject to mortgage, garnishment, attachment, execution, or assignment; and

2) is not an asset of the business or licensee and may not be included in a decedent's estate.

If, however, it is considered personal property, the reverse is true. It

1) is subject to mortgage, garnishment, attachment, execution, or assignment; and

2) is an asset of the business or licensee and may be included in a decedent's estate.[30]

Most state legislatures and courts have stressed that liquor licenses are a privilege rather than a property right. This tradition is epitomized in American Jurisprudence (Am Jur) and Corpus Juris Secondum (C.J.S.) summaries:

> A license to engage in the liquor traffic is not a grant, and confers no irrevocable, vested, or proprietary rights upon the licensee which cannot be revoked or terminated by the licensing authorities. It is a mere personal and temporary permit or privilege, and not a natural right, to be enjoyed only so long as the conditions and restrictions governing its continuance are complied with, and allowing the licensee to do what could not be lawfully done without it, and it is not property in any constitutional sense. The mere fact that a liquor license is transferable with the approval of the state does not alter its personal nature. Nor are vested rights created under a liquor license by the acquisition and use of the instrumentalities necessary to the liquor business.[31]

> A liquor license or permit is merely a personal privilege, a permission, to engage in the liquor business authorized therein; it is a temporary permit to do that which would otherwise be unlawful. It is a personal trust to the licensee named in it. The license or permit is not a contract and confers no contract rights;[32]

However, this tradition has been substantially modified by the practices surrounding liquor licensing in most states. Am Jur and C.J.S. qualify their broad statements concerning the nature of license as follows:

> ... because of the limitations respecting the number and location of liquor establishments and the conditions under which the license is issued, a liquor license has to have the quality of property, with an actual pecuniary value far in excess of the license fees exacted. It has been said that a liquor license is a legal interest in the nature of an economic asset, created and protected by statute, and, because it has monetary value and is transferable, it possesses the qualities of property.[33]
>
> However, it may have aspects or the quality of property. It is of value to the holder, and usually has some money value, sometimes great money value. Purchasers of the business have considered it as having something of value in excess of the license fee in jurisdictions where the statutes give such a purchaser a preference in the renewal of the license.[34]

States have generally taken one of two approaches to this question:

1) Most state legislatures have enacted statutes specifically providing that licenses are a privilege, not a property right and forbidden their attachment, mortgage, execution, or inheritance. Indiana, Massachusetts, Oregon, Pennsylvania, Rhode Island, Washington, and Wyoming (among others) have such provisions.[35]

2) Other states provide specific property rights to licenseholders in statute. However, these states rarely say explicitly that the licenses constitute property and often, in fact, enact such property rights while retaining statutes saying licenses are a privilege. In Montana, for example, section 16-4-401 provides that "a license...is a privilege... and is not a right," but section 16-4-204 allows it to be inhehrited and subject to mortgage and other valid liens. New Mexico statutes are silent on the nature of the license but allow assignment, mortgage, and execution.[36]

   Because statutes are silent or sometimes in conflict in these states on the nature of licenses, state courts have often provided the definition of their nature. California courts have held that licenses are "mere permits", but have also decided that they could be included in estates for bankruptcy purposes and be made subject to tax liens. Idaho's Supreme Court ruled that:

   > "The statutes governing the transfer of liquor licenses and limiting the number of licenses that may be issued

> connote that liquor licenses, as between the licensee and third persons, constitute a right to which value as property and assignability is attributed."[37]

As noted in my last report, Montana's Supreme Court initially held that liquor licenses were privileges. However, after the legislature created certain property rights in the licenses in 1951, the court has consistently held that licenses are personal property.[38]

Market Value of Licenses

However, the nature of the license has not, in practice, been a critical factor in determining the market value of licenses. In states in which licenses are considered privileges liquor licenses are sold for prices as high as in states in which the licenses are considered personal property. In Oregon, South Dakota, and North Dakota, for example, licenses are a privilege but the market value for a license in certain Oregon cities is $60,000, in Sioux Falls or Rapid City it is $100,000, and in Bismarck, $30,000. Idaho, on the other hand, counts licenses as property, but the market value in even the "highest" quota cities rarely exceeds $80,000.* In each of the states I contacted licenses had a market value higher than the state's issue price, irrespective of whether the licenses were considered a privilege or property.[39]

This phenomenon of market value in excess of the state's issue price seems to spring from the licenseholders' right to transfer the license to a buyer and from the scarcity of the licenses. Several state courts have also isolated these elements as the source of high market value. The Washington Supreme Court acknowledged that Washington statute called the license a privilege but found

> Where the right to transfer a liquor license is recognized by statute, such license or right to transact the liquor license becomes a valuable property right, subject to barter and sale. [40]

The Montana Supreme Court held in 1950 that:

> It is the renewal privilege accorded to licensees by the 1947 Act [which created the quota system] that makes of

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*As in Montana, information on the market value of licenses is based, in most states, on rumors and educated guesses. Only one state of the eight I contacted required that the purchase price for the transfer of license be recorded with the state. California requires this disclosure so that the licensing authority knows what interests are providing the financial baacking for the venture and so it can determine whether the provisions relating to new licenses (see page 22) are complied with. Most states regard transfer and prices as private business transactions and do not require information about the purchase price.

> an outstanding state retail liquor license a treasure to be eagerly sought in all communities where the quota has been exceeded.[41]

Of the 21 population quota states I surveyed, all allow some mechanism for transfer of licenses. In Oregon, the statutes prohibit transfer but they allow "change of ownership in location", in which a tavern business is sold to a new owner, contingent on the new owner receiving a license. The previous license lapses and the Liquor Control Commission issues a new license to the new owner if he meets the OLCC requirements.[42] In most other states, statutes allow transfers directly between the licensee and the buyer provided the buyer meets the statutory qualifications for licensure and applies for the license (Alaska, Arizona, Florida, California, Idaho, Indiana, Kentucky, Michigan, Minnesota, New Jersey, Ohio, Washington, Montana, Wyoming, among others). A few states have additional requirements on transfers: in Massachusetts, the licensing authority must find that the transfer is "in the public interest"; in Rhode Island, all the licensee's business debts must be paid before the business can be transferred.[43]

Statutes allowing transfer of liquor were probably enacted in recognition that a major portion of the market value of a tavern or licensed restaurant is the liquor license and that owners are, understandably, anxious to receive this market value when they sell. However, their transferability makes the value of the licenses rise sharply in areas in which no additional licenses are available. In California, for example, licenses in Orange County are worth $100,000 on the open market but only $5,000-$6,000 in less populated areas. Similarly, liquor licenses in Boise, Idaho -- a fast-growing area -- cost about $80,000, while licenses in Couer d'Alene, which is well stocked with resort liquor licenses, reportedly sell for $10,000.[44]

Inability to finance the purchase of the licenses through mortgages does not seem to keep the market value of licenses down, as one might expect. As previously noted, licenses in South Dakota and Oregon sell for $100,000 and $60,000, even though they are not subject to mortgage. License administrators in states forbidding mortgage note that mortgages for tavern operations are often made contingent on the new owner securing a license or a mortgage is secured by a high valuation on the furniture and fixtures of the tavern.[45]

In Wyoming, license administrators note that market values for licenses have remained lower than in surrounding states due to 1) lower demand for licenses, and 2) local governments' discretion in licensing. As previously noted, Wyoming exempts resorts, convention facilities, clubs, and restaurants from the quota system and allows an unlimited number of beer licenses in the counties, so the competition for liquor licenses is less intense than in neighboring South Dakota, in which all liquor licenses are under the quota system. In addition, city councils and county commissioners have, by statute, the absolute authority to issue licenses up to the quota and approve transfers in their jurisdictions. Their decisions, which may not be appealed to the state liquor control agency, have made transfer less certain than in other states and, thus, kept the market value lower.[46]

California uses another method for keeping market values lower -- at least temporarily. New licenses issued as a result of population growth may not be transferred for more than their original issue price ($6,000) for five years after they are first issued.[47]

V. CONCLUSION

As these remarks suggest, other states' liquor licensing systems, no matter what their provisions, have certain features in common:

1) The number of liquor licenses available is limited in some way: by prohibition, by licensing authorities' discretion, or by quotas based on population.

2) The number of licenses issued in population quota states is always in excess of the quota system, due to "grandfathered" licenses, exceptions to the quota system, and decisions not to reduce the number of licenses when population declines.

2) Liquor licenses tend to acquire a market value in excess of their issuance fee whenever the number of licenses available is limited and existing licenses are allowed to be transferred.

4) Competition for licenses appears to be most intense where the limitations are far-reaching. In states with numerous exceptions to the quota system and alternate types of licenses available, demand for the licenses (and the market value for them) seems to decrease.

NOTES

1. Case summarized in 45 American Jurisprudence (2d ed.) 23. [Am Jur].

2. Ibid. 24. 48 Corpus Juris Secondum 33 [C.J.S.].

3. 48 C.J.S. 33. 45 Am Jur (2d ed.) 24.

4. State v. Andre, 101 Mont. 366, 54 Pac. (2nd) 566 (1935).

5. 45 Am Jur (2d) 23 and 42. 34 Lawyers Edition 2d 805.

6. Ibid.

7. State v. Erlandson 126 Mont. 317, 249 Pac. (2nd) 794 (1952).

8. Joint Committee of the States to Study Alcoholic Beverage Laws, Alcoholic Beverage Control (1973), p. 19.

9. Summarized in Alcoholic Beverage Control, pp. 50-51.

10. 45 Am Jur (2d) 134, 136. 48 C.J.S. 38.

11. Alcoholic Beverage Control, p. 19.

12. Ibid., p. 82.

13. Ibid., p. 21.

14. Quoted in Montana Legislative Council, Alcoholic Beverage Control Statutes (1974), p. 11.

15. Larry Quinn, Politicians in Business, A History of the Liquor Control System in Montana (University of Montana: 1970), p. 6.

16. Conversation with Jim Bough, Licensing Bureau, 30 October 1979.

17. Conversation with Oregon Liquor Control Commission personnel, 30 October 1979.

18. 48 C.J.S. 38. 45 Am Jur (2d) 135.

19. 45 Am Jur (2d) 136.

20. Conversation with Pete Peterson, member of Washington Liquor Commission, 30 October 1979.

21. Conversation with Oregon Liquor Control Commission personnel, 30 October 1979. Idaho statute 23-903, conversation with Jim Bough. California statute 23818, conversation with Mr. Buyer, Legislative Liaison, Liquor Control Agency, 30 October 1979.

22. Ibid.

23. Arizona 4-206; Florida 561.20; Idaho 23-903; Indiana 7.1-3-22-7, Kentucky 241.075; Massachusetts 138-17; Michigan 436.19c; New Jersey 33.1 - 21.11; Pennsylvania 4-461; Rhode Island 3-5-16; Wisconsin 176.05(21); Wyoming 12-4-202.

24. Conversation with Leon Messerly and Tom Mulholland, 30 August and 31 October 1979.

25. Conversation with Jim Bough, Mr. Buyers, Jim Ferguson (head Licensing Bureau, Wyoming), Licensing staff in South Dakota, personnel of OLCC.

26. Conversation with OLCC personnel, 30 October 1979.

27. 48 C.J.S. 38. 45 Am Jur 2d) 204.

28. Fylken v. City of Minot, 264 N.W. 728, 66 N.D. 251.

29. Weinberg v. Kluchesky, 294 N.W. 530, 326 Wis. 99.

30. 45 Am Jur (2d) 115-117. 48 C.J.S. 109. State statutes.

31. 45 Am Jur (2d) 115.

32. 48 C.J.S. 109.

33. 45 Am Jur (2d) 117.

34. 88 C.J.S. 109.

35. Indiana 7.1-3-1.2. Massachusetts 138-23. Wyoming 12-4-601(A). Oregon 471.301.

36. Florida 561.65. California 24070. New Mexico 60-7-18.

37. Weller v. Hopper, 379 Pac. (2d) 92 (1963).

38. Sullivan v. Marsh, 124 Mont. 415, 225 Pac. (2d) 868 (1950). Gaskill v. Severovic, 149 Mont. 340 (1967); Beard v. McCormicks, 147 Mont. 361 (1966); State ex rel. Victor's, Inc. v. District, 169 Mont. 110 (1976).

39. Conversation with Jim Bough (Idaho), OLCC personnel, Licensing personnel in South Dakota, Pete Peterson, 30 October 1979.

40. Deggender v. Seattle Brewing and Malting Co. 183 Pac. (2d) 898.

41. Sullivan v. Marsh. 124 Mont. 415, 225 Pac. (2d) 868 (1950).

42. Oregon 471.301. Conversation with OLCC personnel, 30 October 1979, and with Tom Mulholland, Assistant Administrator, Liquor Divison, DOR, 31 October 1979.

43. Statutes of states mentioned. Massachusetts 138-23. Rhode Island 3-5-19.

44. Conversations with Mr. Buyers (California) and Jim Bough (Idaho).

45. Conversations with OLCC personnel, Mr. Buyers (California).

46. Conversation with Jim Ferguson, Wyoming, 30 October 1979.

47. Conversation with Mr. Buyers, 30 October 1979.

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0057

December 19, 1979

TO: Revenue Oversight Committee

FROM: Teresa Olcott Cohea TOC

RE: Options for changes in the current license quota system

Introduction

At the November 17 meeting, members finished reviewing the research material on Montana's liquor quota system and began discussing possible changes in this system. To facilitate continued discussion at the January meeting, I have listed below some possible alternatives. This list is intended to include a wide range of reasonable alternatives, but there is no presumption, of course, that it is exhaustive.

These alternatives are offered for committee discussion only and no analysis of the advantages and disadvantages of any of the alternatives is undertaken. Information and analysis on any alternative the committee wishes explored can be presented at a future meeting.

Possible options when considering changes in the current license quota system:

A. Make no changes in current license quota statutes

B. Abolish license quota system and allow an unlimited number of licenses

   1) Provide compensation to current licenseholders

   2) Provide no compensation to current licenseholders

C. Gradually erode property nature of licenses

   1) Forbid transfer of existing licenses

   2) Forbid transfer of licenses created in future

3) Allow transfer of licenses only by state auction to highest qualified bidder, with profits in excess of issuance fee retained by state (or state and seller split capital gain)

4) Forbid mortgage or attachment of future licenses

5) Combination of above or similar provisions

D. Change the method by which the number of available licenses is determined:

1) Use population estimates prepared by Department of Community Affairs rather than U.S. census data to determine official population figures

2) Include residents within 5 miles of city limits in county population figures

E. Change the method by which a new quota license is issued

1) Use a lottery of qualified applicants to award new licenses created by population growth

F. Increase or decrease the number of licenses

1) Change the population requirements for licenses

2) Offer new licenses for sale at current market value in each locality (number may or may not be controlled)

3) Create a new class of licenses for restaurants, hotels, and convention centers

4) Allow local initiative or referendum to increase the number of licenses in a city or town

5) Allow bottle clubs

a) Special license

b) Not licensed

G. Encourage redistribution of existing licenses

1) Make quotas countywide, basing number of licenses for each county on total county population and allowing the use of the license anywhere within the county

2) Make quotas statewide

3) Allow "floater" licenses to be treated as all other licenses (may be transferred, mortgaged, etc.)

H. Some combination of C through G

TOC:ee

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SUBJECT: MONTANA'S RETAIL LIQUOR MONOPOLY

DATE: JANUARY 10, 1980

PREPARED FOR: REVENUE OVERSIGHT COMMITTEE

PREPARED BY: TERRY OLCOTT COHEA

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I. SUMMARY OF REPORT

A. The major portion of this report describes Montana's retail liquor sales operation, which has the following features:

1) The current retail liquor operation was created in 1933 after the repeal of prohibition, was modelled on Alberta's laws, and was designed to give the state "the greatest possible control" over the sale of liquor.

2) As of December 30, 1979, there were 101 state liquor stores, 44 agency stores, and one cash store. The state stores, the central liquor warehouse, and the Revenue Department's Stores Bureau employ 250 FTE's.

3) Merchandising policies in state stores have changed markedly in recent years, emphasizing self-service, better display, and consumer convenience.

4) A committee composed of Department staff and the executive secretary of the Montana Tavern Association decide what liquor "labels" will be imported into the state, based on market considerations such as price, manufacturers' plans to advertise the product in the state, number of competing labels, and so on.

5) The Liquor Division establishes the price of liquor and wine sold in state liquor stores by adding freight costs and a state markup of 40%-82% to the purchase price. The prices so established are slightly higher (2%-5%) than prices of liquor in other states.

6) The state stores sell $55 million of liquor and wine a year, 60% to retail licensees and 40% to private consumers.

7) Sales in state liquor stores have decreased since wine became available in grocery stores. However, sales increased in the past three months making year-end totals for liquor sales comparable to 1978 sales.

8) Operating expenses have averaged 10% of state stores' total sales for the past decade. Employees' salaries and benefits comprise 6.5% of total sales.

9) Liquor excise and license taxes produce about $10 million in revenue for state and local governments each year.

10) Profits from state liquor stores average 18% of total sales, exclusive of liquor tax. This profit ratio compares reasonably well with other states.

11) Liquor taxes and profits are the state's fifth largest revenue source, producing over $14.5 million in state revenue in FY 1978.

12) As directed by HB 483 of the last session, the Liquor Division has converted 12 state stores to agency stores during the current fiscal year and plans to convert at least 15 more during the coming year.

B. Eighteen "control" states operate wholesale or retail liquor operations. The other states allow sale of package liquor through private stores, licensed by the state. During the past decade, "control" states have, however, changed their laws to allow private importation and sale of wine.

C. Section V summarizes major arguments for and against state retail liquor monopolies.

II. INTRODUCTION

Since 1933, Montana has operated a state monopoly on the wholesale and retail importation and sale of most alcoholic beverages. This system, modelled on a system then in use in Alberta, Canada, was designed to give the state "the greatest possible control" over the sale of liquor.[1] Current statutes vest the "entire control" of the manufacture, sale, and distribution of liquor in the Department of Revenue, which replaced the Liquor Control Board as the administrator of the state's liquor laws.[2]

Under the monopoly system, the state imports liquor into the state, establishes a price for it, and offers it for sale at that price to retail licensees* and private consumers through state liquor stores and state agency stores. Although by custom and rule retail licensees are able to offer packaged liquor for sale in conjunction with their regular bar business, this private retail system must purchase its liquor from the state monopoly system.

The only exceptions to the state monopoly system have been beer and, recently, wine. Since 1933, the legislature has forbidden the state monopoly from importing or distributing beer. Private wholesalers perform this function under conditions imposed in state law. In 1979, Initiative 81 extended these provisions to table wine, allowing its direct import and private retail sale and forbidding state involvement. However, the 1979 Legislature slightly modified the initiative to allow the Department to import wine and offer it for sale in state liquor stores.

As the chief "private enterprise" venture of the state, the liquor monopoly system has been the object of considerable controversy and the subject of many legislative investigations and studies. These studies have isolated two distinct components of the system:

a) wholesale operations in which the state imports liquor into the state and prices it; and

b) retail operations in which the state sells liquor and wines to retail licensees and private customers through state liquor stores and agency stores.

Since both of these subjects are large, this report is limited to a consideration of the retail operation, in which Committee members have expressed interest.

III. STATE RETAIL OUTLETS

Number and location

At present, there are 101 state liquor stores, 1 cash store, and 44 agency liquor stores operating in Montana. Table IV lists the location of each store. There are 215 FTE's in the state liquor stores, 20 in the central office, and 15 in the central warehouse.[3]

*Persons buying liquor in unbroken case lots receive a 5% discount (16-2-201).

State liquor stores are retail stores operated by the Department and staffed by state employees. State agency stores are private stores with which the Department contracts to offer state liquor for sale at the same prices as in state liquor stores, under conditions set by the Department. In return, the agent receives 10% of the gross sales as commission. The sole cash store (on Malstrom Air Force Base) purchases liquor from the state system at its purchase price plus handling and 6%. The store offers the liquor at the state's posted price but keeps the markup.*

Sections 16-1-302 and 16-2-101 give the Department authority to establish either state liquor stores or agency stores as liquor outlets and to determine the number and location of each type of store. Both types of stores have existed since the early days of the monopoly. In 1933, the Liquor Control Board established one state store in each of the 56 county seats and entered into agency agreements with merchants in "communities too small to support a state store."[4] The number of state stores fluctuated widely over the next 45 years. By 1935 - a mere two years later there were 115 stores and 200 by 1940. However, the Liquor Control Board and Department of Revenue reduced this to 146 in 1968 and will further reduce it to 86 by 1981.[5]

Merchandising policies

Stories abound of the state's poor merchandising policies in the early days of the monopoly: dirty, dark stores in inconvenient locations, surly clerks, inconvenient hours, no checks allowed, no promotional displays. Historians of Montana's monopoly system conclude that these poor merchandising policies sprang from the Board's commitment to promoting temperance or, at least, reducing consumption.

While the Board did not formally abandon this aim, by the late 1960's it began emphasizing better service, redesigning stores to attract customers, and relocating some stores to more convenient locations. In 1966, the Board opened the first self-service store and gradually converted the remainder of the stores to embody some of the merchandising principles of a supermarket.[6]

In response to HB 483's mandate for $13 million to be deposited in the general fund during the 1980-81 biennium, the Department has undertaken major merchandising changes since July 1, 1979:

1) longer store hours;

2) ready acceptance of personal checks**; and

3) increased emphasis on merchandise displays; and

---

*Military reservations are not required to pay state liquor taxes.

**The Liquor Division policy prior to July 1, 1979,, did not forbid state liquor store employees from accepting personal checks, but allowed store managers to establish the policy for each store. Most store managers chose not to accept personal checks.

4) lower prices on liquor purchased at discounted prices.[7]

Purchasing policies

Since all liquor sold in Montana must first be imported by the Department of Revenue, its decisions on what to purchase are of interest to both distillery representatives and consumers.

Under the Liquor Division's current procedures, a committee of six meets quarterly to determine what labels the Department will "list" or include in its purchase orders. This committee is composed of the Administrator of the Liquor Division, the Assistant Administrator, the Chiefs of the Store Bureau and the Purchasing Bureau, the executive secretary of the Montana Tavern Association, and the store manager in Helena. This committee meets in open sessions to consider new labels offered by distillery and winery representatives and discuss possible labels to "delist", or remove from the purchase order.

The committee's decision to list an item is based on market considerations such as price, manufacturers' plans to advertise the product in the state, number of competing labels already listed, and so on. The committee considers "delisting" a label if its sales comprise less than 5% of the total sales in that category, i.e., a bourbon label that accounts for only 5% of the total bourbon sales in the state.

The Purchasing Bureau chief determines the number of cases of each label that will be ordered, based on historic sales. New labels are shipped automatically to the larger state stores. Local managers order additional cases, based on local sales.[8]

Customers may purchase liquors and wines that are not on the Department's list by placing a special order through their local state store. The Liquor Division has continued the Liquor Control Board policy of accepting minimum quantity special orders of one case.

The Department had planned to change this policy in regard to wine in early 1979 and encourage customers to place special orders through private wine retailers. The Division found, however, that due to expense private retailers were reluctant to accept such orders so the Department has continued its special order of wines.[9]

Markup

The Liquor Division establishes the price of liquor and table wine sold through state liquor stores by adding freight costs, a markup, and liquor taxes. This markup, set by policy rather than statute, was established years ago by the Liquor Control Board:

Bottled in Bond, Blend, Bourbon Vodka, Gin, Tequila, Rye Tennessee, Mash, Brandy Canadian, and Scotch	40%

Wines:

Case Cost up to $8.00 . . . . . 82%

TABLE I

RELATIVE LIQUOR PRICES*AMONG CONTROL STATES
(Montana - state owned = 1.00)

Control States	Brand Name Distilled Spirits	Selected Lowest Priced Brands
Alabama	1.02	.99
Idaho	1.05	1.04
Iowa	.92	.86
Maine	.99	.86
Michigan	.94	.92
Mississippi	.89	.90
MONTANA	1.00	1.00
New Hampshire	.78	.73
North Carolina	.95	.92
Ohio	1.01	1.01
Oregon	1.11	1.06
Pennsylvania	1.05	1.00
Utah	1.12	1.05
Vermont	.83	.83
Virginia	.91	.86
Washington	1.16	1.19
West Virginia	.96	.90
Wyoming	.99	.98
Unweighted Average	.98	.95

Source: Office of the Legislative Fiscal Analyst, Fiscal Impacts of Altering Montana's Liquor Distribution System (1976), p. 35.

*The prices shown for other states reflect,in some instances, prices in state liquor stores and, in other instances, prices in private retail stores. Since that latter prices include an additional markup, these comparisons should be used with caution.

TABLE II
RELATIVE LIQUOR PRICES AMONG OPEN STATES
(Montana - State Owned = 1.00)

License States	Brand Name Distilled Spirits	Selected Lowest Priced Brands
Alaska	1.12	1.19
Arizona	1.18	1.24
Arkansas	1.01	1.04
California	.99	.78
Colorado	.79	.82
Connecticut	1.08	1.11
Delaware	.97	.91
Florida	.90	.95
Georgia	.97	.98
Hawaii	1.09	.88
Illinois	.87	.89
Indiana	1.06	1.05
Kansas	.99	1.04
Kentucky	1.01	----
Louisiana	.93	.93
Maryland	.86	.89
Massachusetts	1.02	.98
Minnesota	.95	1.02
Missouri	.98	.95
Nebraska	1.00	1.04
Nevada	.85	.83
New Jersey	1.05	.88
New Mexico	.93	.96
New York	.97	----
North Dakota	1.09	1.06
Oklahoma	.87	----
Rhode Island	1.10	1.13
South Carolina	1.07	----
South Dakota	1.09	1.07
Tennessee	1.19	1.18
Texas	.92	.85
Wisconsin	.93	1.00
Unweighted Average	.99	.99

Source: Office of the Legislative Fiscal Analyst, Fiscal Impacts of Altering Montana's Liquor Distribution System (1976), pp. 36.

Case Cost over $8.00 up to $18.00 . . . 60%
Case Cost over $18.00 . . . . . 40%[10]

This markup is comparable to that in other states. Data collected by the Legislative Fiscal Analyst (LFA) in 1976 found that the price of liquor set by the Liquor Division is 5% higher than the average price in other control states* and only 1% higher than the average price in open states*, as shown in Tables I and II. The National Alcoholic Beverages Control Association calculated in 1978 that the average total markup for distilled spirits and wines in in control states - including taxes, freight, markup, handling charges was 72.38%. Montana's was 80%.[11]

NABCA also found that state store price to consumers for a fifth of 100 proof spirits costing the state $40/case averaged $5.77 in control states in 1978. Montana's price was $6.00 or 3.9% higher.

The LFA 1976 study concluded that Montana's state price for wine was somewhat higher than in other states: 6.25% higher than in open license states and 10.77% higher than in other control states. The study blamed the higher price on the "high markup on cost combined with an excise tax."[12] However, the 1979 change in Montana's tax on wine - from 26% of its retail selling price to 20 cents a liter - has lessened this gap, making Montana's prices near the national average.

Sales

Over $55 million of liquor and wine were sold in FY 1978 by state liquor stores. Approximately 60% was sold to retail licenses and 40% to private consumers.

Sales of liquor in Montana are somewhat higher than in other control state: in 1976, per capita consumption of distilled spirits in Montana was 2.01 gallons, compared to an average of 1.65 gallons per persons in other control states. Only control states Wyoming (2.34), New Hampshire (5.43), Vermont (3.15), and Washington (2.02) had greater per capita consumption. Open license states tend - because of greater availability and, sometimes, greater selection - to have higher sales and consumption. In 1976, the average consumption was 2.13 gallons per person in open license states.[13] Department staff think that tourist trade may account for the high per capita consumption in Montana.

Sales in Montana's state stores have decreased since July 1, when wine sales began in grocery stores. As of November, wine sales were down 67% compared to the same period in 1978 and spirit sales .04%. However, sales have improved in the past two months and the Division expects to deposit the $13 million in profits mandated by HB 483.[14]

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*NABCA defines a control state as "any state which engages in the business of buying and selling alcoholic beverages." An open license state is defined as "a state where the alcoholic beverage business operates as a private enterprise under state regulation and control through a system of licenses."

Expenses

Tables III and IV show in graphic form a breakdown of the Department's expenses for its liquor sales operation. Of every dollar collected by state liquor stores in FY 1978, 56 cents went to purchase liquor and wine and 9 cents to other expenses. Table IV shows that 5.7 cents of these expenses were for the salaries of state liquor store employees and of Helena administrators, .8 cents for their benefits, and 2.6 cents for store rent, utilities, and equipment. Finding comparable data from other states has proved difficult, since each state reports its retail operations' profits and expenses in a different manner. The only state whose reporting methods were similar to Montana's was West Virginia. There, state liquor stores expend 8.52 cents of every dollar collected on employees' salaries, 1.94 cents on benefits, and 7.3 cents on general expenses.[15] However, the data available does not allow me to compare these expenses with those in other control states.

Table VI shows the operating expenses of the liquor operation since its creation. Expenses have remained near 10% of sales during the past decade.

Taxes

All liquor sold in Montana is subject to two taxes: the liquor excise tax of 16% of retail selling price and the 10% license tax. Wine is subject to a tax of 20 cents per liter. These revenues are distributed to the state general fund, the Department of Institutions, and to cities and counties under formulae established in section 16-1-404, 16-1-406, and 16-1-411. The tax collected by state liquor stores and distributed to these sources in recent years was:

	FY 77	FY 78
Liquor excise tax to general fund	$6,286,748	$6,459,007
Liquor license tax to local govts.	1,571,684	3,713,256
Liquor license tax to state programs	392,922	1,356,628[16]

Table V shows the disposition of this revenue for the past 10 years. Liquor taxes and profit from state liquor sales are a major source of state revenue. In FY 1978, they ranked as the fifth largest source, producing $14.5 million in state revenue or $24.90 per person in the state. This was higher than revenue produced by sales of liquor in other states. In 1976, the average per capita revenue produced in control states was $22.71 and in license states $19.70.[17]

Profit

Table VI lists the operating profit of the state liquor stores in each year of their operation. In recent years, profits have averaged about 18% of total sales, exclusive of liquor taxes.

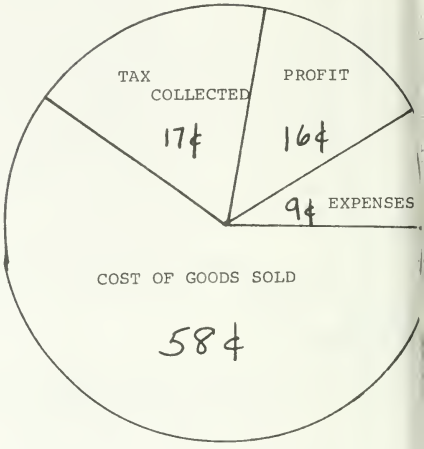
This seems to compare reasonably well with other states. A 1973 study done for the Pennsylvania legislature calculated that the average ratio of operating costs to gross sales for all control states was

TABLE III

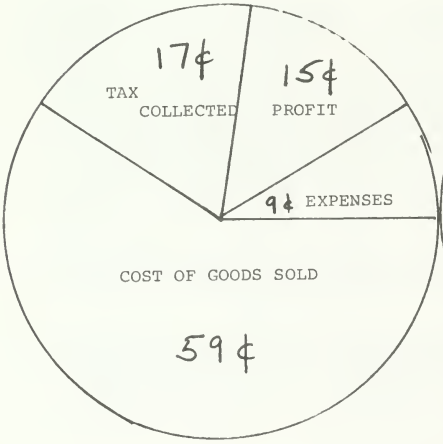
0070

LLOCATION OF EACH DOLLAR COLLECTED BY STATE LIQUOR STORES

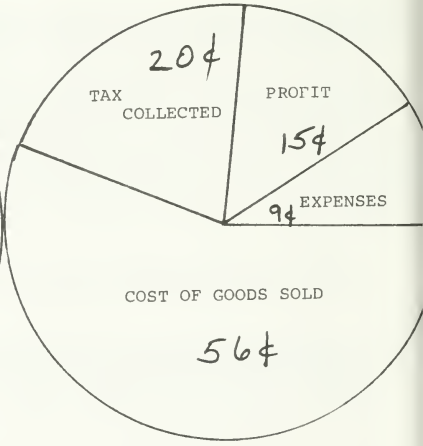
FY1975



FY1976



FY1977

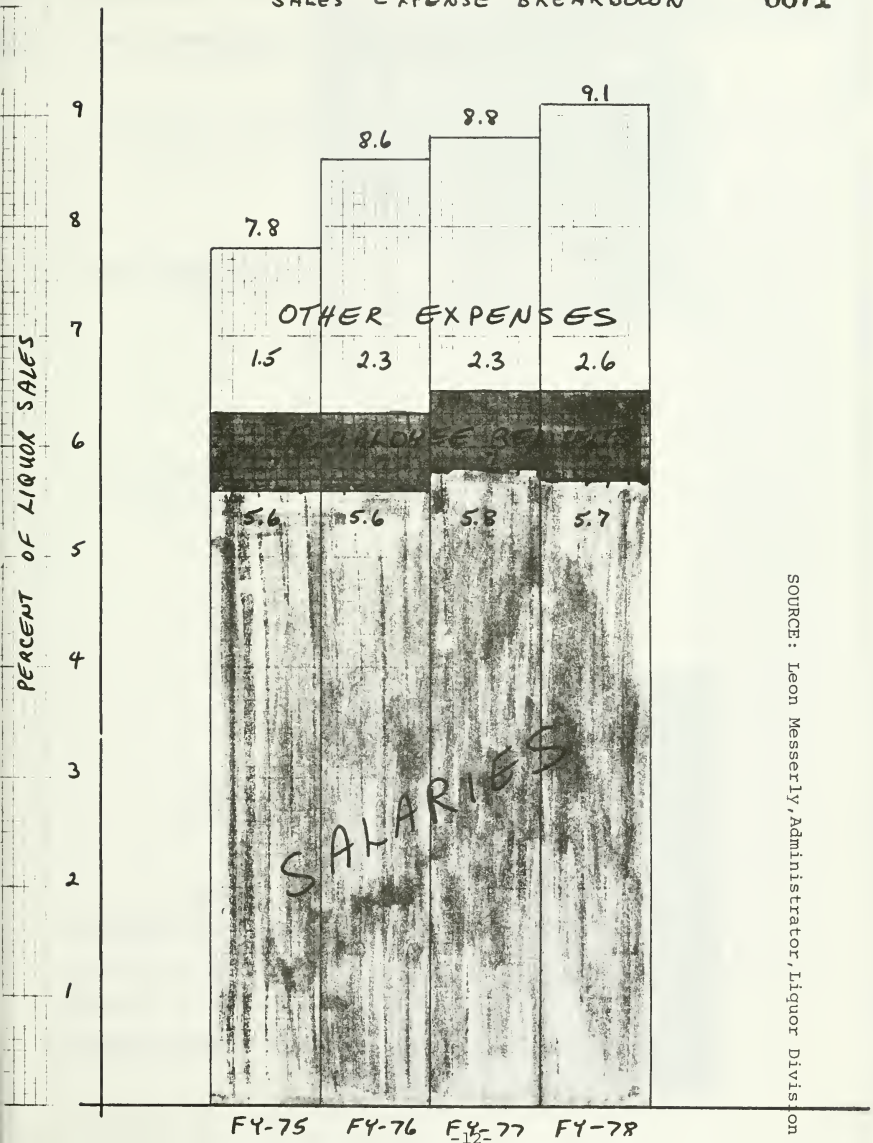


FY1978

TABLE IV

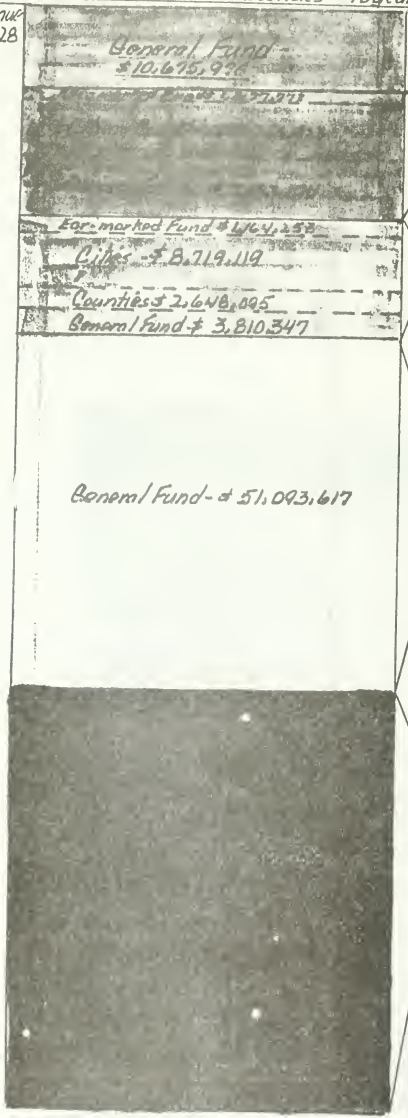
SALES EXPENSE BREAKDOWN

0071



SOURCE: Leon Messerly, Administrator, Liquor Division

Distribution of Total Revenues - 10 year Period FY'68-'69 to FY'77-'78



Totals

General Fund	$139,312,865
Cities	
Counties	$ 20,124,137
E.M. Fund	$ 2,542,026
Total	$161,949,028

SOURCE: Leon Messerly, Administrator, Liquor Division

TABLE VI
SALES, EXPENSES, PROFITS, AND STATE REVENUE
FROM THE SALE OF LIQUOR, 1934-1978

	Sales[1]	Operating Expenses	Operating Profits	Operating Profit As A Percentage Of Sales	General Fund Distribution Of Profits
1934	$ 2,613,390	$ 350,805	$ 722,214.57	27.6	$ 10,000.00
1935	4,704,319	604,754	1,134,386.56	24.1	1,000,000.00
1936	6,231,436	741,690	1,552,477.88	24.9	1,400,000.00
1937	6,657,774	757,784	1,688,731.78	25.4	1,405,000.00
1938	5,623,348	654,734	1,374,790.88	24.4	1,500,521.70
1939	5,562,034	642,076	1,364,445.13	24.5	1,508,979.34
1940	5,922,412	661,440	1,401,235.66	23.7	1,305,000.00
1941	6,543,386	713,834	1,530,374.48	23.3	1,400,000.00
1942	8,479,193	729,904	1,994,472.61	23.5	1,500,000.00
1943	9,672,902	718,649	2,045,450.67	21.1	1,200,000.00
1944	10,937,411	777,810	1,852,609.84	16.9	611,740.69
1945	12,930,757	827,780	1,814,539.25	14.0	650,000.00
1946	16,999,797	972,560	2,901,552.04	17.1	2,000,000.00
1947	14,894,511	1,048,529	2,521,892.89	16.9	2,000,000.00
1948	15,187,667	1,096,650	2,673,560.59	17.6	5,000,000.00
1949(6mo.)	7,078,660	1,651,514	1,212,213.51	17.1	1,250,000.00
1949-50	14,355,279	1,210,631	2,473,713.59	17.2	3,500,000.00
1950-51	16,322,119	1,298,103	3,065,033.98	18.8	2,500,000.00
1951-52	16,158,507	1,345,116	2,839,874.04	17.6	2,800,000.00
1952-53	17,563,262	1,420,019	3,020,552.39	17.2	3,000,000.00
1953-54	17,139,191	1,354.104	3,117,965.90	18.2	3,250,000.00
1954-55	17,046,540	1,370,254	3,165,056.52	18.6	2,750,000.00
1955-56	17,533,685	1,456,928	3,190,883.59	18.2	3,250,000.00
1956-57	19,796,719	1,530,601	3,805,449.48	19.2	3,000,000.00
1957-58	14,046,887	1,581,589	2,237,857.71	15.9	3,000,000.00
1958-59	16,282,896	1,582,505	2,820,549.23	17.3	2,750,000.00
1959-60	16,084,471	1,624,187	2,767,427.47	17.2	2,750,000.00
1960-61	16,292,078	1,700,720	2,741,858.18	16.8	3,000,000.00
1961-62	16,772,416	1,781,698	2,873,769.93	17.1	3,500,000.00
1962-63	17,385,228	1,919,665	2,896,000.29	16.7	3,000,000.00
1963-64	17,432,207	2,059,527	2,922,799.63	16.8	2,500,000.00
1964-65	18,320,645	2,108,286	3,099,134.82	16.9	3,100,000.00
1965-66	19,446,155	2,146,165	3,335,733.93	17.2	2,600,000.00
1966-67	20,417,292	2,193,761	3,553,892.32	17.4	3,350,000.00
1967-68	21,329,660	2,338,619	3,881,672.31	18.2	3,500,000.00
1968-69	22,546,203	2,587,181	4,078,763.62	18.1	3,750,000.00
1969-70	24,462,865	2,677,222	4,931,050.82	20.2	4,405,540.00
1970-71	26,462,096	2,800,760	5,225,969.48	19.7	4,946,867.00
1971-72	29,497,440	3,162,354	6,624,576.22	22.5	5,992,159.00
1972-73	31,561,164	3,331,577	7,705,053.13	24.4	4,512,141.00
1973-74	33,107,005	3,418,004	7,274,480.90	22.0	8,675,600.00
1974-75	35,158,694	3,319,604	7,571,244.00	21.5	7,738,305.00
1975-76	37,700,432	3,893,673	7,104.050.00	18.8	7,260,551.00
1976-77	40,284,376	4,248.455	7,314,754.00	18.2	7,189,862.00
1977-78	41,351,162	4,701,292	7,744,846.00	18.7	6,778,951.00
1978-79					

[1]Sales are exclusive of liquor tax.

8.5%. Montana's ratio in that year was 8.75%.[18] I am presently collecting more recent data from other control states.

Section 16-2-108 requires that the net proceeds from the operation of the state liquor stores be paid into the state general fund. In FY 1978, the Department deposited $6.8 million of profit. HB 483 mandated that Department deposit at least $7.2 million in FY 1979 and $13 million or more for FY 1980 and FY 1981 of liquor profit in the general fund.

The profitability of individual state liquor store operations varies markedly—from approximately $400,000 for the Helena store to a net loss in some communities. Table VI shows the net profit for each state store and agency store during the first quarter of fiscal 1979*. Profitability depends, of course, on the amount of the store's lease, the number of employees, and the market area. Helena's liquor store is the most profitable in the state in part because there is only one state store for the city and the small facility limits the number of staff that may be hired.[19]

Conversion of state stores to agency stores

The Department has, in recent years, converted some unprofitable state stores to agency stores. In FY 1976, for example, six agency stores were opened to replace seven state stores. However, the pace of conversion has been much accelerated by HB 483 of the 1979 session, which states:

> It is legislative intent that nonprofitable state stores be closed or converted to agency stores in an orderly manner.

This language was written by the subcommittee considering the Department of Revenue's budget during the past legislature. Committee members and staff pinpointed 27 stores as the least profitable and urged their conversion. The LFA staff estimated that $150,000 in operating expenses would be saved during this biennium by the conversion of these stores.

Twelve of these stores have now been converted and another three are scheduled for conversion this month. Table IX lists these stores and the conversion date or proposed conversion date.

To eliminate ambiguity on the point, HB 483 established guidelines for defining an unprofitable store:

> A nonprofitable store is one that shows a net loss or is less profitable than if run at agency store status after reducing gross revenues by all state excise and license taxes and by deducting therefrom all normal operating expenses, which includes a pro rata share, based on gross sales, of central administrative office expenses.

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*Using this quarter may distort rankings somewhat since tourist purchases in resort areas are greatest during this quarter.

TABLE VII
STATE LIQUOR STORES AND AGENCY STORES RANKED BY PROFITS
First Quarter of Fiscal 1979

Helena	$ 97,656	Ronan	$ 5,122
Missoula #171	96,225	Boulder (a)	5,108
Kalispell	94,964	Sheridan	4,823
Billings #3	83,665	Lincoln	4,783
Billings #4	67,987	Harlowton	4,768
Great Falls	66,774	Belgrade	4,724
Bozeman	64,248	Big Sky (a)	4,715
Butte #116	54,450	Stevensville	4,704
Great Falls #139	51,795	Absarokee	4,676
Missoula #170	51,455	Chinook	4,212
Great Falls #140	41,518	Thompson Falls	4,181
Billings #5	38,254	Poplar	4,118
Butte #2	34,142	Gardiner	4,002
Whitefish	28,979	East Helena	3,948
Anaconda	28,947	St. Regis	3,832
Polson	26,585	Noxon (a)	3,792
Livingston	24,557	Conrad	3,695
Miles City	24,082	White Sulphur Sprgs.	3,632
Havre	23,370	Broadus	3,543
West Yellowstone	21,040	Walkerville	3,357
Lewistown	18,331	Fort Benton	3,323
Browning	18,321	Scobey	3,273
Hamilton	18,054	Harlem	3,255
Libby	17,422	Columbus	3,212
Dillon	16,736	Malstrom AFB (a)	2,938
Bigfork	14,919	Belt (a)	2,867
Hardin	14,744	Superior	2,810
Glendive	13,706	Phillipsburg	2,774
Red Lodge	13,740	Choteau	2,589
Columbia Falls	12,535	Birney (a)	2,493
Sidney	12,291	Worden	2,469
Glasgow	11,293	Lima	2,425
Big Timber	11,234	Cascade	2,412
Plentywood	10,869	Manhattan (a)	2,352
Wolf Point	10,138	Cooke City (a)	2,202
Ennis	9,711	Alberton	2,184
Victor	9,553	St. Ignatius	2,147
Cut Bank	9,034	Medicine Lake (a)	2,067
Martin City (a)	8,292	Big Sandy	2,067
Forsyth	7,888	Fairfield	1,960
Evergreen	7,885	Decker (a)	1,903
Shelby	7,789	Wilsall (a)	1,903
Seeley Lake	7,728	Drummond	1,899
Laurel	7,670	Kevin (a)	1,765
Malta	7,555	Fromberg	1,683
Deer Lodge	7,129	Winifred (a)	1,639
Troy	6,673	Brady (a)	1,611
Three Forks	6,584	Hobson (a)	1,610
Darby (a)	6,534	Ashland	1,590
Baker	6,018	Wibaux	1,383
Townsend	5,882	Saco (a)	1,374
Eureka	5,776	Opheim (a)	1,301
Whitehall	5,610	Culbertson	1,245
Plains (a)	5,584	Wisdom (a)	1,244
East Glacier	5,336	Hysham	1,197

Elliston (a)	$ 1,173
Valier	1,155
Winnett	1,049
Ovando (a)	1,044
Nashua	1,024
Jackson (a)	1,001
Neihart	977
Martinsdale (a)	938
Geraldine (a)	935
Hinsdale (a)	866
Chester	843
Roundup	829
Turner (a)	761
Arlee	728
Dupuyer (a)	727
Twin Bridges	707
Ekalaka	689
Geyser (a)	655
Westby (a)	644
Stanford	531
Melstone (a)	473
Hot Springs	448
Flaxville (a)	405
Hingham	331
Circle	303
Richey (a)	280
Roy (a)	209
Sunburst	172
Fairview	(103)
Terry	(160)
Ryegate	(438)
Stockett	(589)
Augusta	(744)
Dutton	(1,425)
Jordan	(1,510)

(a) = Agency Store

The attached worksheet (Table VIII) shows the method by which the Department has implemented these guidelines.

The Department's procedure for converting a store is designed to avoid financial loss for the state and give the community as much information about the pending conversion as possible. Before converting a store, the Liquor Division:

1) waits for the store's lease to expire or the manager to retire;

2) notifies the Director of the Department and the Governor of the pending conversion;

3) meets with area legislators and explains the economics of the conversion; and

4) notifies affected unions of the pending conversion.

Nevertheless, citizens in several towns in which a conversion has occurred have been dismayed by the closure of the state liquor store because of the loss of the lease payment and staff salaries. The Retail Clerks Union, Local No. 1573, also has filed a grievance against the Department concerning the conversions, claiming that they violate their collective bargaining agreement.

Division staff report that this process has consumed much central office time during the past year and has reduced the time available for supervising local store managers and aiding them with merchandising. Thus, the actual savings realized this biennium in operating expenses from the conversion of these stores may be slight. However, once conversion is completed and the number of stores reduced, central office staff may be able to devote additional time to these tasks and improve the profitability of the remaining stores.[20]

IV. LIQUOR SYSTEMS IN OTHER STATES

As Table XI shows, eighteen states, called the "control states", maintain liquor wholesale or retail operations. Mississippi and Wyoming operate wholesale monopolies only. In the remaining "open license" states, package liquor is sold by privately owned stores licensed by the state or by local governments.

The liquor operation in each of these states was created in 1933-34, when prohibition ended, and has remained relatively unchanged. No state has ever abandoned its state monopoly in favor of private distribution or established a state liquor monopoly after a period of open licensing. Although several legislatures - including Maine's, Pennsylvania's, and Oregon's - have debated whether to phase out their state monopolies, none have yet done so.

Five states have, however, changed their statutes governing distribution of table wines. During the past decade, Idaho, Maine, Virginia, Washington, and Montana all have enacted laws allowing both private wholesaling and retailing of wine.

TABLE VII

STORE #46 LOCATION JORDAN GRADE 6

	FY77		FY78		FY79		FY80-Estim.		FY81-estim.	
	STATE	AGENCY	STATE	AGENCY	STATE	AGENCY	STATE	AGENCY	STATE	AGENCY
TOTAL SALES UNITS	14655	14655	13687	13687	13781	13784	11566	11556	11962	11962
INCOME										
Adjusted gross sales less	66890	66890	67736	67736	71260	71260	57526	57526	59483	59483
Cost of merchandise =	38652	38652	37480	37480	39305	39305	31625	31625	32870	32870
Gross profit	28237	28237	30306	30306	31955	31955	25895	25895	26910	26910
OPERATION										
Salaries	9414	—	10426	—	11101	—	11656	—	12237	—
Supplies	92	—	153	—	198	—	208	—	217	—
Comm-Trans	2432	2432	2417	2417	1884	1884	2044	2044	2208	2208
Travel	29	—	—	—	—	—	—	—	—	—
Rent	2400	—	2460	—	2400	—	2400	—	2460	—
Utilities	—	—	—	—	—	—	—	—	—	—
Repairs	55	—	66	—	66	—	66	—	66	—
Admin. cost	1172	1172	1095	1095	1241	1241	1035	1035	1076	1076
Other	15	—	30	—	—	—	—	—	—	—
Contracted services	—	6689	—	6779	—	7126	—	5750	—	5980
TOTAL	15611	10294	16581	10291	16891	10251	17410	8829	18208	9264
TOTAL REVENUE	26027	17944	13725	20215	15664	21703	8465	17046	8702	17646
less										
Taxes	11609	11609	13988	13988	14704	14704	12075	12075	12558	12558
NET PROFIT	1618	6335	-262	6227	359	6998	-3610	4971	-3356	5088
PROFIT/UNIT	.0694	.4336	-.0192	.4551	.0261	.5076	-.3134	.4322	-.3224	.4254
GAIN(+) LOSS(-)		(+5397)		(+6492)		(+6639)		(F8536)		(F5744)

0078

10/23

0079

To: Ian MacFarlane, Assist. Administrator
Liquor Division

From: Wm. Campbell, Administrative Officer

Date: October 23, 1979

RE: Format Used to project FY'81 & 82 Sales and Expenses.

Whenever a feasability study is done for a possible store conversion all FY'80 figures are projected from actual FY'79 sales and expense figures.

Figures used for FY'80 are computed as follows: 1) Unit Sales = a) Projected Spirit sales are 70% of actual units sold during FY'79 plus a 2% increase. b) Projected Wine sales are 30% of actual units sold during FY'79 less a 60% decrease. Projected Spirit sales plus the Projected Wine Sales Equals the Total Estimated unit sales for FY'80.

2) Adjusted Gross Sales = The number of estimated units sold in FY'80 multiplied by an average unit selling price of $4.70.

3) Cost of Merchandise = 55% of the Estimated Adjusted Gross Sales for FY'80.

4) Taxes = 21% of the Estimated Adjusted Gross Sales for FY'80.

5) Operational Expenses = a) Communications are figured to increase 8% over FY'79 figures. b) Rent is computed in one of two ways: 1) new lease due, we assume a 100% increase over old monthly rental amount. 2) if under the current lease the lessee has the privilege to renew the lease the rental amount remains the same. c) Administrative Costs are computed as a straight 9¢ per Estimated units sold in FY'80. d) All other expenditures items are computed as a straight 5% increase over FY'79 Expenditure figures.

0080

Figures used for FY-81 are computed as follows:

1) Unit Sales = a straight 4% increase over the estimated FY-80 unit sales.

2) Adjusted Gross Sales = The number of estimated units sold in FY-81 multiplied by an average unit selling price of $5.00.

3) Cost of Merchandise = 55% of the estimated Adjusted Gross Sales for FY-81

4) Taxes = 21% of the estimated Adjusted Gross Sales for FY-81

5) Operational Expenses = a) Rent is carried over using the same estimated figure as used for FY-80. b) Administrative costs are computed as a straight 7¢ per unit sold in FY-81. c) All other expenditure items are computed at the same percentage increase using FY-=. Expense figures as the base.

TABLE IX

CONVERSION TO AGENCIES - NOTIFICATION AND APPROVAL SHEET

TABLE IX

STORE NO.	LOCATION	DIRECTOR NOTIFIED	DIRECTOR APPROVED	GOVERNOR NOTIFIED	GOVERNOR APPROVED	LEGISLATORS-SENATOR NOTIFIED	LEGISLATORS-SENATOR APPROVED	UNION NOTIFIED	UNION APPROVED	CONVERTED
121	MANHATTAN	XX	XX	XX	XX	XX	XX	XX	XX	1/79
161	HOBSON	XX	XX	XX	XX	XX	XX	XX	XX	7/79
82	LIMA	XX	XX	XX	XX	XX	XX	XX	XX	7/79
191	EAST GLACIER	XX	XX	XX	XX	XX	XX	XX	XX	7/79
46	JORDAN	XX	XX	XX	XX	XX	XX	XX	XX	8/79
40	BROADUS	XX	XX	XX	XX	XX	XX	XX	XX	8/79
158	ROY	XX	XX	XX	XX	XX	XX	XX	XX	8/79
81	AUGUSTA	XX	XX	XX	XX	XX	XX	XX	XX	9/79
48	RYEGATE	XX	XX	XX	XX	XX	XX	XX	XX	9/79
192	LOLO	XX	XX	XX	XX	XX	XX	XX	XX	11/1/79
115	STEVENSVILLE	9/21/79	9/21/79	9/21/79	9/21/79	9/21/79	9/25/79	10/10/79	10/15/79	10/10/79
30	SUPERIOR	9/21/79	9/21/79	9/21/79	9/21/79	9/26/79	9/30/79	10/24/79	10/30/79	
185	ST. REGIS	9/10/79	9/10/79	9/10/79	9/10/79	9/21/79	9/25/79	10/24/79	10/30/79	
77	TWIN BRIDGES	9/79	9/79	9/79	9/79	10/30/79	11/5/79	10/30/79	11/5/79	advertising sent out 11/21/79
84	ARLEE	5/18/79				5/23/79	6/11/79	6/11/79	6/16/79	[illegible]
99	STOCKETT	10/24/79	10/24/79	10/24/79	10/24/79	10/5/79	10/10/79	10/5/79	10/10/79	scheduled 12/1/79
43	STANFORD	10/24/79	10/24/79	10/24/79	10/24/79	10/5/79	10/10/79	10/5/79	10/10/79	scheduled 12/1/79
172	VALIER	10/24/79	10/24/79	10/24/79	10/24/79	10/31/79	11/5/79	10/5/79	10/10/79	scheduled 1/17/80
19	WIBAUX	10/24/79	10/24/79	10/24/79	10/24/79	11/9/79	11/16/79	11/9/79	11/16/79	

7801

0082

CONVERSION TO AGENCIES - NOTIFICATION AND APPROVAL SHEET

STORE NO.	LOCATION	DIRECTOR NOTIFIED	DIRECTOR APPROVED	GOVERNOR NOTIFIED	GOVERNOR APPROVED	LEGISLATORS-SENATOR NOTIFIED	LEGISLATORS-SENATOR APPROVED	UNION NOTIFIED	UNION APPROVED	
91	FROMBERG	10/9/79	10/9/79	10/9/79	10/9/79	11/7/79	11/14/79	11/7/79	11/14/79	
44	ROUNDUP	10/15/79	10/15/79	10/15/79	10/15/79	11/7/79	11/14/79	11/7/79	11/14/79	
41	EKALAKA	5/10/79	5/10/79	5/10/79	5/10/79	5/16/79	5/20/79	6/5/79	6/15/79	scheduled 1/80
47	CIRCLE	5/10/79	5/10/79	5/10/79	5/10/79	5/16/79	5/20/79	6/5/79	6/15/79	scheduled 1/80 or 2/80

TABLE XI

OPEN LICENSE STATES

Alaska	Illinois	New Jersey
Arizona	Indiana	New Mexico
Arkansas	Kansas	New York
California	Kentucky	North Dakota
Colorado	Louisiana	Oklahoma
Connecticut	Maryland	Rhode Island
Delaware	Massachusetts	South Carolina
Dist. of Columbia	Minnesota	South Dakota
Florida	Missouri	Tennessee
Georgia	Nebraska	Texas
Hawaii	Nevada	Wisconsin

CONTROL STATES

Alabama	Montana	Utah
Idaho	New Hampshire	Vermont
Iowa	North Carolina	Virginia
Maine	Ohio	Washington
Michigan	Oregon	West Virginia
Mississippi	Pennsylvania	Wyoming

V. ARGUMENTS FOR AND AGAINST STATE CONTROL OF LIQUOR SALES

The following arguments have been advanced at various times in support of Montana's liquor monopoly system:

1) savings to consumers. Through its bulk freight rates and centralized warehouse operation, the Department is able to cut costs and consequently pass these savings on to consumers.

2) profit on liquor sales to state, rather than private retailers. Profit earned in monopoly liquor operations is returned to the state, while private retailers realize this profit in open license states.

3) convenience to consumers and uniform prices throughout the state. Supporters argue that state liquor stores and agency outlets provide service and selection in small communities which might not, otherwise, be served. Retail licensees can also carry smaller inventories in their bars, since they can purchase daily from state liquor stores. Citizens of small isolated towns are able to purchase liquor for the same price as urban dwellers.

4) significant revenue generation. State liquor stores return about $6 million to the state general fund each year. Supporters argue that abolition of the state monopoly would deprive the state of this sum annually.*

5) decrease liquor consumption. Supporters point out that average per capita consumption in control states was 1.65 gallons in 1976 compared to 2.13 gallons per person in open license states.[23]

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*Research in other states suggests that loss of a state monopoly does substantially reduce revenue. In 1978, Oregon legislative staff estimated that a shift to private retail sales would reduce state revenue $6.5 million a year, if prices remained constant.[21] A 1979 West Virginia study estimated an annual loss of $3.5 million (a 17% reduction in 1979 collections) if the state liquor stores were closed.[22]

Opponents of state liquor monopolies in Montana and other states have countered with the following arguments:

1) philosophical opposition. Many opponents feel that the state should not operate a retail business and exclude all others from competing with it.

2) savings to consumers. Opponents contend that state markups are higher than private stores' profit margins and that liquor prices will be lowered in the competition of free enterprise sales.

3) convenience to consumers. Opponents argue that a private retail system would allow more stores per person in more convenient locations and improve selection.*

4) increased tax revenue generated to offset loss in revenue. Supporters contend that: (a) the increased consumption produced by private retailing will yield greater excise tax collections**, and (b) private retailing will produce new income or corporate income tax revenue. These funds will offset the loss of state liquor store profits.

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*Evaluating these claims is difficult, since no state has ever converted from control to open license. Open license states do, at present, have more outlets per person for off-premises sales than control states. In 1978, the average license state had one outlet per every 3,121 people, compared to one for every 3,877 people in control states. However, the number of outlets per person in each license state varied markedly, depending on the laws in those states.[24]

**The 1978 Oregon Legislative Revenue Office study estimated that private retail states have 14% greater sales per person than retail control states.

NOTES

1. Larry Quinn, Politicians in Business. [Missoula: University of Montana (1970)], p. 6.

2. Section 16-1-103, MCA.

3. Information from Captain Bryant, Chief of the Stores Bureau, Liquor Division, Department of Revenue, 11 December 1979.

4. Quinn, p. 7.

5. Captain Bryant, 11 December 1979.

6. Quinn, p. 95.

7. Information from Leon Messerly, Administrator, Liquor Division, 11 December 1979.

8. Information from Howard Heffelfinger, Purchasing Bureau Chief, Department of Revenue, 18 December 1979.

9. Ibid.

10. Ibid.

11. Office of the Legislative Fiscal Analyst, Fiscal Impacts of Altering Montana's Liquor Distribution System (1976), pp. 35-36. NABCA, Control States Mark-Up Procedures (1978), p. A.

12. Fiscal Impacts, p. 19.

13. NABCA, Comparison of State and Local Revenue and Per Capita Consumption in Control States, 1960-1976 (1978), p. 11.

14. Information from Leon Messerly, 19 December 1979.

15. West Virginia Alcohol Beverage Control Commissioner, Presentation to the Legislative Subcommittee on Alcohol Sale and Beer Commissioner Study (1979), p. 2.

16. Department of Revenue, Annual Financial Report, Fiscal Year 1978, p. 26.

17. NABCA, Comparison..., p. 11.

18. Laventhol, Krekstein, Horwath, and Horwath, Preliminary Evaluation of Feasibility of Converting Liquor Operations to Private Enterprise (1973), pp. 28-29.

19. Captain Bryant, 19 December 1979.

20. Ibid.

21. Oregon Legislative Revenue Office, Research Report #6-78: Revenue Effect of Converting to Private Retail Liquor Stores in Oregon (1978), p. 1.

22. Presentation..., p. 2.

23. NABCA, Comparison..., p. 11.

24. NABCA, Retail Outlets in the States (1978), p. 3.

REVENUE OVERSIGHT COMMITTEE

MONTANA STATE LEGISLATURE

SENATOR JEAN TURNAGE, Chairman
REP. HERB HUENNEKENS, Vice Chairman

State Capitol, Room 138
Helena, Montana 59601
Phone 449-3064

February 27, 1980

TO: Members, Revenue Oversight Committee

FROM: Jim Oppedahl, Legislative Researcher

RE: Bill Draft -- Annual Census and Elimination of Special Census in Liquor Quota

Enclosed is a draft bill requested by the Committee at the January 12, 1980 meeting. The bill does two things:

1) the use of annual population estimates in establishing liquor license quotas is authorized in the interim between an official decennial census. This is done in Sections 1 through 4;

2) elimination of special censuses that are currently allowed when the number of persons residing outside but within five miles of the city limits exceeds the number of persons living within the city. This is done in Section 2, page 7, lines 1 through 9.

Appendix A is a sample of the latest population estimates available from the Bureau of the Census. It is important to note that the Bureau of the Census publishes two separate population estimates that are relevant to the Revenue Oversight Committees' concerns. The Bureau's P-25 Series establishes population estimates for counties and incorporated places in Montana. The P-26 Series provides estimates of the population of counties and "metropolitan areas" in Montana. Since the two different series are based upon different estimation methodologies, population estimates differ slightly between the Series. Only the P-25 Series contains both county and incorporated city and town estimates. Therefore, for consistency of methodology, the P-25 Series estimates would likely be the estimates sanctioned by the Department of Revenue for use in the quota system.

It is also very important to note that the population estimates published by the Bureau of the Census are, indeed, estimates. While the estimates are carefully calculated and monitored for accuracy (the Bureau said in a 1973 publication that Montana's estimates deviated from the actual census by less than 5%),[1] the use of the estimates may create some problems -- such as:

1) publication of the population estimate Series P-25 has a lag time of about two years. The July 1977 estimates were available in November of 1979.

2) population estimates in stable or slow-growth areas have been found by the Bureau to be more accurate than estimates made in areas with extreme changes in population -- those experiencing population losses of ten percent or more or increases of 35 percent or more.[2] To the extent that annual census data is to be used to relieve quota pressures in high growth areas, it should be recognized that there may be more distortion in the estimates in those areas than in more stable growth areas.

3) overestimations in some areas may make decennial adjustments necessary when actual census data becomes available. It may be necessary to indicate in law the adjustment method or to indicate to the Department of Revenue how a license issued upon an optimistic population estimate is to be handled.

One final point of information that may be useful to the Committee concerns the recent Congressional mandate to the Bureau of the Census to conduct quinquennial (5 year) censuses. The Bureau of the Census is still working out the details of the five year census project. It has not yet decided the level of data or geography the census will reflect. According to officials at the Department of Community Affairs, the quinquennial census will probably be a survey that will not be useful at the county or incorporated city level in Montana.

Please contact me at 449-3064 if you need any additional information.

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1 U.S. Bureau of the Census, Current Population Reports, Series P-26, No. 21, "Federal-State Cooperative Program for Local Population Estimates: Test Results - April 1, 1970," U.S. Government Printing Office, Washington, D.C., 1973, p 2.

2 U.S. Bureau of the Census, Current Population Reports, Series P-26, No. 21, "Federal-State Cooperative Program for Local Population Estimates: Test Results - April 1, 1970," U.S. Government Printing Office, Washington, D.C., 1973, p 5-6.

Table 1. July 1, 1977 Population Estimates for the State, Counties, and Subcounty Areas

AREA	JULY 1, 1977	APRIL 1, 1970 CENSUS	CHANGE, 1970 TO 1977	
			NUMBER	PERCENT
STATE OF MONTANA	765 880	694 409	71 271	10.3
BEAVERHEAD COUNTY	8 252	8 187	65	0.8
DILLON	4 366	4 548	-182	-4.0
LIMA	305	351	-46	-13.1
BIG HORN COUNTY	10 875	10 057	818	8.1
HARDIN	3 177	2 733	444	16.2
LODGE GRASS	520	806	-286	-35.5
BLAINE COUNTY	7 092	6 727	365	5.4
CHINOOK	1 718	1 813	-95	-5.2
HARLEM	1 299	1 094	205	18.7
BROADWATER COUNTY	3 149	2 526	623	24.7
TOWNSEND	1 719	1 371	348	25.4
CARBON COUNTY	8 104	7 080	1 024	14.5
BEARCREEK	48	31	17	54.8
BRIDGER	805	717	88	12.3
FROMBERG	488	384	104	28.6
JOLIET	559	412	147	35.7
RED LODGE	2 002	1 844	158	8.6
CARTER COUNTY	1 846	1 956	-110	-5.6
EKALAKA	846	863	-17	-2.6
CASCADE COUNTY	85 116	81 804	3 312	4.0
BELT	722	656	66	10.1
CASCADE	732	714	18	2.5
GREAT FALLS	80 334	80 091	243	0.4
NEIHART	121	109	12	11.0
CHOUTEAU COUNTY	6 480	6 473	-13	-0.2
BIG SANDY	792	827	-35	-4.2
FORT BENTON	1 843	1 863	-20	-1.1
GERALDINE	364	370	-6	-1.6
CUSTER COUNTY	13 072	12 174	898	7.4
ISMAY	32	40	-8	-20.0
MILES CITY	9 691	9 023	668	7.4
DANIELS COUNTY	3 104	3 083	21	0.7
FLAXVILLE	184	185	-21	-11.4
SCOBEY	1 593	1 486	107	7.2
DAWSON COUNTY	11 389	11 269	120	1.1
GLENDIVE	5 883	6 305	-422	-6.7
RICHEY	392	389	3	0.8
ANACONDA-DEER LODGE COUN	14 338	15 852	-1 314	-8.4
ANACONDA-DEER LODGE	14 338	15 852	-1 314	-8.4
FALLON COUNTY	3 982	4 050	-68	-1.7
BAKER	2 836	2 584	52	2.0
PLEVNA	174	189	-15	-7.9
FERGUS COUNTY	13 277	12 611	666	5.3
DENTON	383	398	-15	-3.8
GRASS RANGE	188	181	7	3.9
LEWISTOWN	6 723	6 437	286	4.4
MOORE	237	219	18	8.2
WINIFRED	187	190	-23	-12.1
FLATHEAD COUNTY	46 937	39 460	7 477	18.9
COLUMBIA FALLS	3 124	2 652	472	17.8
KALISPELL	15 652	10 526	5 126	48.7
WHITEFISH	3 674	3 349	325	9.7
GALLATIN COUNTY	38 803	32 505	6 298	19.4
BELGRADE	2 037	1 307	730	55.9
BOZEMAN	20 309	18 670	1 639	8.8
MANHATTAN	955	816	139	17.0
THREE FORKS	1 403	1 188	215	18.1
WEST YELLOWSTONE	790	756	34	4.5
GARFIELD COUNTY	1 763	1 796	-33	-1.8
JORDAN	553	529	24	4.5
GLACIER COUNTY	11 055	10 783	272	2.5
BROWNING	1 894	1 700	194	11.4
CUT BANK	3 765	4 004	-239	-6.0
GOLDEN VALLEY COUNTY	926	931	-5	-0.5
LAVINA	147	169	-22	-13.0
RYEGATE	241	261	-20	-7.7
GRANITE COUNTY	2 714	2 737	-23	-0.8
DRUMMOND	486	494	-28	-5.7
PHILIPSBURG	949	1 128	-179	-15.9
HILL COUNTY	18 308	17 358	950	5.5
HAVRE	10 575	10 558	17	0.2
HINGHAM	210	262	-52	-19.8
JEFFERSON COUNTY	7 112	5 238	1 874	35.8
BOULDER	1 078	1 342	-286	-19.8
WHITEHALL	1 360	1 035	325	31.4
JUDITH BASIN COUNTY	2 880	2 867	193	7.2
NORSON	181	192	-11	-5.7
STANFORD	658	505	153	30.3
LAKE COUNTY	17 807	14 445	3 162	21.9
POLSON	2 977	2 464	513	20.8
RONAN	1 452	1 347	105	7.8
ST. IGNATIUS	958	925	33	3.6
LEWIS AND CLARK COUNTY	39 609	33 281	6 328	19.0
EAST HELENA	2 202	1 651	551	33.4
HELENA	28 142	22 730	5 412	23.8
LIBERTY COUNTY	2 627	2 359	268	11.4
CHESTER	1 038	936	102	10.9
LINCOLN COUNTY	16 686	18 063	-1 377	-7.6
EUREKA	1 059	1 195	-138	-11.6

AREA	JULY 1, 1977	APRIL 1, 1970 CENSUS	CHANGE, 1970 TO 1977 NUMBER	CHANGE, 1970 TO 1977 PERCENT
LIBBY	2 699	3 266	-567	-11.6
RELFORD	149	243	-94	-38.7
TROY	1 023	1 046	-23	-2.2
MCCONE COUNTY	2 803	2 875	-72	-2.5
CIRCLE	1 095	964	131	13.6
MADISON COUNTY	5 687	5 014	673	13.4
ENNIS	506	501	5	1.0
SHERIDAN	701	636	65	10.2
TWIN BRIDGES	697	613	84	13.7
VIRGINIA CITY	206	149	57	38.3
MEAGHER COUNTY	2 246	2 122	126	5.9
WHITE SULPHUR SPRGS	1 359	1 200	159	13.2
MINERAL COUNTY	3 483	2 958	525	17.7
ALBERTON	446	363	83	22.9
SUPERIOR	1 019	993	26	2.6
MISSOULA COUNTY	67 034	58 263	8 771	15.1
MISSOULA	29 221	29 497	-276	-0.9
MUSSELSHELL COUNTY	4 619	3 734	885	23.7
MELSTONE	311	227	84	37.0
ROUNDUP	2 480	2 116	364	17.2
PARK COUNTY	12 664	11 197	1 467	13.1
CLYDE PARK	354	244	110	45.1
LIVINGSTON	7 097	6 883	214	3.1
PETROLEUM COUNTY	652	675	-23	-3.4
WINNETT	236	271	-35	-12.9
PHILLIPS COUNTY	5 375	5 388	-11	-0.2
DODSON	196	196	-	-
MALTA	2 196	2 195	1	.1
SACO	325	356	-31	-8.7
PONDERA COUNTY	7 869	6 811	1 053	15.9
CONRAD	3 976	2 770	1 206	43.5
VALIER	750	851	99	15.2
POWDER RIVER COUNTY	2 402	2 862	-460	-16.1
BROADUS	778	799	-21	-2.6
POWELL COUNTY	7 494	6 660	834	12.5
DEER LODGE	4 980	4 306	674	15.7
PRAIRIE COUNTY	1 857	1 752	105	6.0
TERRY	909	870	39	4.5
RAVALLI COUNTY	19 581	14 409	5 172	35.9
DARBY	527	538	-11	-2.0
HAMILTON	3 287	2 499	788	31.5
STEVENSVILLE	1 204	829	375	45.2
RIBAUA COUNTY	1 454	1 465	-11	-0.8
RIBAUA	671	644	27	4.2
YELLOWSTONE COUNTY	101 456	87 367	14 089	16.1
RICHLAND COUNTY	10 280	9 837	443	4.5
FAIRVIEW	931	956	-25	-2.6
SIDNEY	4 937	4 543	394	8.7
ROOSEVELT COUNTY	10 511	10 365	146	1.4
BAINVILLE	167	217	-50	-23.0
BROCKTON	411	401	10	2.5
CULBERTSON	836	821	15	1.8
FROID	291	330	-39	-11.8
POPLAR	1 512	1 389	123	8.9
WOLF POINT	3 712	3 095	617	19.9
ROSEBUD COUNTY	10 503	6 032	4 471	74.1
FORSYTH	2 861	1 673	788	42.1
SANDERS COUNTY	8 437	7 093	1 344	18.9
HOT SPRINGS	631	664	-33	-5.0
PLAINS	1 255	1 046	209	20.0
THOMPSON FALLS	1 515	1 356	159	11.7
SHERIDAN COUNTY	5 290	5 779	-489	-8.5
MEDICINE LAKE	360	393	-33	-8.4
OUTLOOK	110	153	-43	-28.1
PLENTYWOOD	2 284	2 381	-97	-4.1
WESTBY	239	287	-48	-16.7
BUTTE-SILVER BOW COUNTY	40 878	41 981	-1 303	-3.1
BUTTE-SILVER BOW	39 704	40 884	-1 180	-2.9
WALKERVILLE	974	1 097	-123	-11.2
STILLWATER COUNTY	5 394	9 632	762	16.5
COLUMBUS	1 250	1 173	77	6.6
SWEET GRASS COUNTY	3 087	2 980	107	3.6
BIG TIMBER	1 752	1 592	160	10.1
TETON COUNTY	6 472	6 116	356	5.8
CHOTEAU	1 617	1 586	31	2.0
DUTTON	390	415	-25	-6.0
FAIRFIELD	652	638	14	2.2
TOOLE COUNTY	5 547	5 839	-292	-5.0
KEVIN	196	250	-54	-21.6
SHELBY	3 089	3 111	-22	-0.7
SUNBURST	542	609	-62	-10.3
TREASURE COUNTY	1 279	1 089	210	19.8
HYSHAM	682	373	309	82.8
VALLEY COUNTY	12 348	11 471	877	7.6
GLASGOW	4 933	4 700	233	5.0
NASHUA	637	513	124	24.2
OPHEIM	365	306	59	19.3
WHEATLAND COUNTY	2 429	2 529	-100	-4.0
HARLOWTON	1 284	1 375	-111	-8.1
JUDITH GAP	184	160	24	15.0
BILLINGS[1]	72 303	64 407	7 896	12.3
BROADVIEW	97	123	-26	-21.1
LAUREL	5 395	4 454	941	21.1
YELLOWSTONE NATIONAL PARK	89	64	25	39.1

[1]1970 CENSUS FIGURE INCLUDES 1970 CENSUS POPULATION RESIDING IN AREAS ANNEXED THROUGH DECEMBER 31, 1977.

Adapted from: Current Population Estimates, Series P-25, No. 78-26

☆U.S. GOVERNMENT PRINTING OFFICE: 1979 O— 311-040 248

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE TRANSFER OF ALL-BEVERAGES LICENSES IN CERTAIN CASES; AMENDING SECTION 16-4-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-204, MCA, is amended to read:

"16-4-204. Contents of license -- posting -- privilege -- transfer -- expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of the department or to any peace officer of the state of Montana.

(2) Any license issued under the provisions of this part shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(3) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling liquor under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to

the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(5) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(6) (a) A Except as provided in subsection (6)(b), a license may be transferred to a new ownership and to a location outside the quota area for which it was originally issued only when the following criteria are met:

(i) the total number of all-beverages licenses in the original quota area exceeded the quota for that area by at least 25% in the most recent census;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred did not exceed that area's quota by more than 25% in the most recent census; and

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by such a transfer.

(b) A license within an incorporated quota area may be transferred to a new ownership and to a new unincorporated location within the same county on application to and with consent of the department when the quota of the all-beverages licenses in the original quota area exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(b)(c) A Except as provided in subsection (b) above, a license transferred between quota areas under this section may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee. A license transferred between quota areas under this section may be held only by natural persons. For the purpose of this

section, natural persons shall not include limited partnerships or other business entities of any kind in which each natural person is not a full participant in the ownership and operation of the business authorized by the license.

(7) (a) Any all-beverage licensee is, upon the approval and in the discretion of the liquor division, entitled to a catering endorsement to his all-beverage license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages, such beverages to be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of $250 must be submitted to the department for its approval.

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of $40 must be filed with the department at least 10 days prior to the event and shall describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the

sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

(d) The licensee shall file with each application for an event to be catered a written statement of approval of the premises where the event is to be held issued by the department of health and environmental sciences.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license.

(9) All licenses shall expire at midnight of June 30 of each year."

-End-

0098 LC 0017/01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPLACE THE LIQUOR AND BEER LICENSE QUOTA SYSTEMS IN THE STATE OF MONTANA WITH A NEW LICENSING SYSTEM; AMENDING SECTIONS 16-4-203, 16-4-204, AND 16-4-501, MCA; AND REPEALING SECTIONS 16-4-105, 16-4-201, 16-4-202, AND 16-4-208, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Appraisal of quota licenses -- records to be furnished. (1) The department shall, before December 31, 1981, appraise the value of each beer license and any wine amendment thereto and each all-beverages license in first-class and second-class cities issued prior to July 1, 1981.

(2) The appraisals must be made by a qualified and competent appraiser hired by the department using the comparable sales method of valuation or any other method acceptable to a qualified appraiser.

(3) The appraised value determined as provided in subsection (2) in a quota area is the value of a license in the same area issued under [sections 2 through 5].

(4) Each licensee, licensed prior to July 1, 1981, shall furnish to the department such books, records, statements, documents, instruments, or other information as the department may require for the purpose of appraising the value of the license. If a licensee fails to furnish the information required, the department shall proceed to appraise the value of the license with such information as is available to it.

NEW SECTION. Section 2. On- and off-premises retail beer licenses. Except as otherwise provided by law, a license to sell beer at retail for consumption on or off premises, in accordance with the provisions of this code and the rules of the department, may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association, organization, firm, or corporation to sell beer.

NEW SECTION. Section 3. Wine license amendments. Any person, association, organization, firm, or corporation holding a license to sell beer for consumption on the premises at retail under [section 2] may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue the amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. A person, association, organization, firm, or corporation holding a beer license under [section

2] with a wine amendment may sell wine for consumption on the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

NEW SECTION. Section 4. Off-premises retail beer and table wine license. A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption only, may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association, organization, firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are a store at a fixed location possessing and displaying a Montana retail store license as provided by Title 15, chapter 57, part 1. The license shall be issued by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause.

NEW SECTION. Section 5. All-beverages license. Except as otherwise provided by law, a license to sell liquor, beer, and wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of the department may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association,

organization, firm, or corporation to sell such beverages.

NEW SECTION. Section 6. Renewal of certain licenses. A beer license and any wine amendment thereto or an all-beverages license issued prior to July 1, 1981, may be converted to a comparable license under [sections 2 through 5], and is renewable on an annual basis in accordance with the provisions of this code.

Section 7. Section 16-4-203, MCA, is amended to read:

"16-4-203. Determination of public convenience and necessity. Any original license issued pursuant to ~~16-4-201~~ or ~~16-4-202~~ this chapter subsequent to ~~April 30, 1974~~ July 1, 1981, shall be issued only upon the department having first determined, upon a hearing held pursuant to the Montana Administrative Procedure Act, that the issuance of such license is justified by public convenience and necessity."

Section 8. Section 16-4-204, MCA, is amended to read:

"16-4-204. Contents of license -- posting -- privilege -- transfer -- expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a

partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of the department or to any peace officer of the state of Montana.

(2) Any license issued under the provisions of this part shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(3) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling liquor under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of

rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(5) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the

business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(6) ~~(a)~~ A license may be transferred to a new ownership and to a new location ~~outside~~ only within the quota area for which it was originally issued ~~only--when-the-following criteria-are-met~~

~~(i)--the-total-number-of-all-beverages-licenses--in--the original--quota--area-exceeded-the-quota-for-that-area-by-at least-25%-in-the-most-recent-censust~~

~~(ii)-the-total-number-of-all-beverages-licenses--in--the quota-area-to-which-the-license-would-be-transferred-did-not exceed-that-area's-quota-by-more-than-25%-in-the-most-recent censust-and~~

~~(iii)~~-and only when the department finds, after a public hearing, that the public convenience and necessity would be served by such a transfer.

~~(b)--A-license-transferred--between--quota--areas--under this-section-may-not-be-mortgaged-or-pledged-as-security-and may--not--be--transferred--to--another--person--except-for-a transfer-by-inheritance-upon-the-death-of--the--licensee.--A license--transferred--between-quota-areas-under-this-section may-be-held-only-by-natural-persons.---For--the--purpose--of this--section,--natural--persons--shall--not-include-limited partnerships-or-other-business-entities-of-any-kind-in-which

each-natural--person--is--not--a--full--partner,one--in--the ownership--and--operation--of-the-business-authorized-by-the license.

(7) (a) Any all-beverage licensee is, upon the approval and in the discretion of the liquor division, entitled to a catering endorsement to his all-beverage license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages, such beverages to be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of $250 must be submitted to the department for its approval.

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of $40 must be filed with the department at least 10 days prior to the event and shall describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the

licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

(d) The licensee shall file with each application for an event to be catered a written statement of approval of the premises where the event is to be held issued by the department of health and environmental sciences.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(g) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license.

(h) All licenses shall expire at midnight of June 30 of each year."

Section 9. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer

licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:

(a) each brewer, wherever located, whose product is sold or offered for sale within the state, $500; for each storage depot, $400;

(b) each beer wholesaler, $400; each table wine distributor, $400;

(c) each beer retailer, $200; with a wine license amendment, an additional $200;

(d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, $200;

(e) any unit of a nationally chartered veterans' organization, $50.

(2) An applicant from a first-class or second-class city for an original license under subsection (1)(c) shall pay a one-time original license fee equal to the appraised value of the license determined in accordance with [section 1] for any such license issued. The one-time license fee does not apply to any transfer or renewal of a license duly issued prior to July 1, 1981. The license, however, is subject to the annual renewal fee provided for in subsection

(1)(c).

~~(2)~~(3) The permit fee under 16-4-301(1) is computed at the rate of $15 a day for each day beer is sold at those events lasting 2 or more days but in no case be less than $30.

~~(3)~~(4) The permit fee under 16-4-301(2) is $10 for the sale of beer only or $20 for the sale of all alcoholic beverages.

~~(4)~~(5) Passenger carrier licenses shall be issued upon payment by the applicant of an annual license fee in the sum of $300.

~~(5)~~(6) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license, is $200.

~~(6) The annual fee for resort retail liquor licenses within a given resort area shall be $2,000 for each license.~~

(7) Each licensee licensed ~~under the quotas of 16-4-201~~ for all beverages retail sales shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, $400;

(b) except as hereinafter provided, for each license in incorporated cities with a population of more than 2,000 and

less than 5,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $500;

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $650;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $800;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and shall be paid by the applicant. When the

premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is within a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and shall be paid by the applicant.

~~(7)(a)~~ an An applicant ~~from a first-class or second-class city~~ for the issuance of an original all-beverages license ~~to be located in areas described in subsection (4) of this subsection~~ shall pay a one-time original license fee ~~of $20,000~~ equal to the appraised value of the license determined in accordance with [section 1] for any such license issued. The one-time license fee ~~of $20,000~~ shall not apply to any transfer or renewal of a license duly issued prior to July 1, ~~1974~~ 1981. ~~All licenses~~ The license, however, are is subject to the applicable annual renewal fee ~~of $600~~ provided for in subsection (7).

~~(8)(f)~~ The fee for one all-beverage license to a public airport shall be $400. This license is nontransferable.

~~(9)(10)~~ The license fees herein provided for are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages."

Section 10. Codification. Sections 1 through 6 are intended to be codified as an integral part of Title 16, chapter 4, and the provisions contained in Title 16 apply to

sections 1 through 6.

Section 11. Repealer. Sections 16-4-105, 16-4-201, 16-4-202, and 16-4-208, MCA, are repealed.

-End-

---------- BILL NO. ------

INTRODUCED BY _____

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PHASE OUT OVER A 15-YEAR PERIOD THE LIQUOR LICENSE QUOTA SYSTEM IN MONTANA; AMENDING SECTIONS 16-4-105, 16-4-201 THROUGH 16-4-204, 16-4-208, AND 16-4-501, MCA; REPEALING SECTIONS 16-4-105 AND 16-4-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. It is the purpose of [this act] to modify the liquor license quota system to gradually phase out the quota system over a 15-year period. There will be no quota system after 1995. The gradual phaseout is intended to allow current and future licenseholders to make sound business decisions based upon a reasonable time period for so doing.

Section 2. Section 16-4-105, MCA, is amended to read:

"16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption. (1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation who is

approved by the department as a fit and proper person, firm, or corporation to sell beer, except that:

(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by congress, as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of such towns:

(A) for the period prior to July 1, 1983, not more than one retail beer license, which may not be used in conjunction with a retail all-beverages license;

(B) for the period from July 1, 1983, and prior to July 1, 1987, not more than two retail beer licenses, which may not be used in conjunction with a retail all-beverages license;

(C) for the period from July 1, 1987, and prior to July 1, 1991, not more than three retail beer licenses, which may not be used in conjunction with a retail all-beverages license;

(D) for the period from July 1, 1991, and prior to July 1, 1995, not more than four retail beer licenses, which may

not be used in conjunction with a retail all-beverages license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities or towns:

(A) for the period prior to July 1, 1983, one beer license for each 500 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(B) for the period from July 1, 1983, and prior to July 1, 1987, one beer license for each 375 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(C) for the period from July 1, 1987, and prior to July 1, 1991, one beer license for each 250 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(D) for the period from July 1, 1991, and prior to July 1, 1995, one beer license for each 125 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities:

(A) for the period prior to July 1, 1983, two

additional retail beer licenses for the first 2,000 inhabitants or major fraction thereof and one additional retail beer license for each additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(B) for the period from July 1, 1983, and prior to July 1, 1987, three additional retail beer licenses for the first 2,000 inhabitants or major fraction thereof and two additional retail beer licenses for each additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(C) for the period from July 1, 1987, and prior to July 1, 1991, four additional retail beer licenses for the first 2,000 inhabitants or major fraction thereof and three additional retail beer licenses for each additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(D) for the period from July 1, 1991, and prior to July 1, 1995, five additional retail beer licenses for the first 2,000 inhabitants or major fraction thereof and four additional retail beer licenses for each additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(b) the number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing

within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail beer licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town.

(c) retail beer licenses of issue on March 7, 1947, and which are in excess of the foregoing limitations shall be renewable, but no new licenses may be issued in violation of such limitations;

(d) such limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if such veterans' or fraternal organization has been in

existence for a period of 5 years or more prior to January 1, 1949;

(e) the number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits thereof or for use at premises situated within any unincorporated town shall be as determined by the department in the exercise of its sound discretion, except that no retail beer license may be issued for any premises so situated unless the department determines that the issuance of such license is required by public convenience and necessity.

(2) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue such amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. A person holding a beer-and-wine license may sell wine for consumption on the premises. Nonretention of the beer license, for whatever reason, shall mean automatic loss of the wine amendment license.

(3) A retail license to sell beer or table wine, or

both, in the original packages for off-premises consumption only may be issued to any person, firm, or corporation who is approved by the department as a fit and proper person, firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore licensed as a pharmacy. The number of such licenses that the department may issue is not limited by the provisions of subsection (1) of this section but shall be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause."

Section 3. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of the department may be issued to any person who is approved by the department as a fit and proper person to sell such beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of such cities and towns shall be determined on the basis of population as

shown by the most recent official United States census authorized by congress, as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of such towns:

(i) for the period prior to July 1, 1983, not more than two retail licenses;

(ii) for the period from July 1, 1983, and prior to July 1, 1987, not more than three retail licenses;

(iii) for the period from July 1, 1987, and prior to July 1, 1991, not more than four retail licenses;

(iv) for the period from July 1, 1991, and prior to July 1, 1995, not more than five retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities and towns:

(i) for the period prior to July 1, 1983, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(ii) for the period from July 1, 1983, and prior to July 1, 1987, four retail licenses for the first 1,000 inhabitants and two retail licenses for each additional 1,000 inhabitants;

(iii) for the period from July 1, 1987, and prior to

July 1, 1991, five retail licenses for the first 1,000 inhabitants and three retail licenses for each additional 1,000 inhabitants;

(iv) for the period from July 1, 1991, and prior to July 1, 1995, six retail licenses for the first 1,000 inhabitants and four retail licenses for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate limits thereof;

(i) for the period prior to July 1, 1983, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants;

(ii) for the period from July 1, 1983, and prior to July 1, 1987, six retail licenses for the first 3,000 inhabitants and two retail licenses for each additional 1,500 inhabitants;

(iii) for the period from July 1, 1987, and prior to July 1, 1991, seven retail licenses for the first 3,000 inhabitants and three retail licenses for each additional 1,500 inhabitants;

(iv) for the period from July 1, 1991, and prior to July 1, 1995, eight retail licenses for the first 3,000 inhabitants and four retail licenses for each additional 1,500 inhabitants.

(2) The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities and may not exceed the foregoing limitations. Notwithstanding the preceding sentence, the total population for determining the quota of a city may include with the city's population the population residing outside but within 5 miles of the city limits in a case where the number of persons residing outside but within 5 miles of the city exceeds the number of persons residing within the city. Such a determination may be made only upon a special census taken by the department or its agent at the expense of the applicant for a license under this section. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for

licensing to the nearest corporate boundary of the city or town.

(3) Retail all-beverages licenses of issue on March 7, 1947, and which are in excess of the foregoing limitations shall be renewable, but no new licenses may be issued in violation of such limitations.

(4) Such limitations do not prevent the issuance of a nontransferable and nonassignable (as to ownership only) retail license to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if such veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(5) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits thereof:

(a) for the period prior to July 1, 1983, may not be more than one license for each 750 population of the county after excluding the population of incorporated cities and incorporated towns in such county;

(b) for the period from July 1, 1983, and prior to July 1, 1987, may not be more than one license for each 560 population of the county after excluding the population of

incorporated cities and incorporated towns in such county;

(c) for the period from July 1, 1987, and prior to July 1, 1991, may not be more than one license for each 370 population of the county after excluding the population of incorporated cities and incorporated towns in such county.

(d) for the period from July 1, 1991, and prior to July 1, 1995, may not be more than one license for each 180 population of the county after excluding the population of incorporated cities and incorporated towns in such county."

NEW SECTION. Section 4. On- and off-premises retail beer licenses. Except as otherwise provided by law, a license to sell beer at retail for consumption on or off premises, in accordance with the provisions of this code and the rules of the department, may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association, organization, firm, or corporation to sell beer.

NEW SECTION. Section 5. Wine license amendments. Any person, association, organization, firm, or corporation holding a license to sell beer for consumption on the premises at retail under [section 4] may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue the amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on

the premises would be supplementary to a restaurant or prepared-food business. A person, association, organization, firm, or corporation holding a beer license under [section 4] with a wine amendment may sell wine for consumption on the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

NEW SECTION. Section 6. Off-premises retail beer and table wine license. A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption only, may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association, organization, firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are a store at a fixed location possessing and displaying a Montana retail store license as provided by Title 15, chapter 57, part 1. The license shall be issued by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause.

NEW SECTION. Section 7. All-beverages license. Except as otherwise provided by law, a license to sell liquor, beer, and wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of

the department may be issued to any person, association, organization, firm, or corporation approved by the department as a fit and proper person, association, organization, firm, or corporation to sell such beverages.

NEW SECTION. Section 8. Renewal of certain licenses. A retail beer license and any amendment thereto or an all-beverages license issued prior to July 1, 1995, may be converted to a comparable license under [sections 4 through 7], and is renewable on an annual basis in accordance with the provisions of this code.

Section 9. Section 16-4-202, MCA, is amended to read:

"16-4-202. Resort licenses. (1) It is the intent and purpose of this section to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail liquor licenses may be issued by the department under the terms and as more particularly prescribed below. In addition to the licenses as otherwise set forth in [this act], the department may issue resort retail liquor licenses in a resort area.

(2) For the purposes of this section, a resort area is defined as a recreational facility meeting the qualifications determined by the department as hereinafter provided.

(3) The department shall determine that the area for which licenses are to be issued is a resort area, such determination to be made under and pursuant to rules to be first promulgated on or before December 31, 1975.

(4) In addition to the other requirements of this code, a resort area, for the purposes of qualification for the issuance of resort retail liquor license, must have a current actual valuation of resort or recreational facilities, including land and improvements thereon, of not less than $500,000, at least half of which valuation must be for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in subsection (5) of this section. The word control shall mean lands held under lease, option, or permit.

(5) The resort area must be determined by the resort developer or landowner by a plat setting forth the resort boundaries, designating the ownership of the lands within the resort area, which plat must be verified by the resort developer or landowner and filed with the department prior to the filing of any applications by individuals for licenses within the resort area. Such plat must show the location and general design of the buildings and other improvements to be built in said area in which resort retail

liquor licenses are to or may be located. A master plan for the development of the area may be filed by the resort developer in satisfaction of this section.

(6) Upon such filing the department shall forthwith schedule a public hearing to be held in Helena, Montana, to determine whether the facility proposed by the resort developer or landowner is a resort area within the meaning of the rules of the department. At least 30 days prior to the date of the hearing, the department shall publish notice thereof, with a description of the location of the proposed resort area, in a newspaper published in the county or counties in which the resort is located, once a week for 4 consecutive weeks. Each resort developer or landowner shall, at the time of filing his application, pay to the department an amount sufficient to cover the costs of said publication.

(7) Persons may present statements to the department at the hearing in person or in writing in opposition or support of the plat.

(8) Within 30 days of the hearing, the department shall accept or reject the plat. If rejected the department must state its reasons and set forth the conditions, if any, under which the plat will be accepted, and the decision of the department may be reviewed pursuant to the review procedure set forth in 16-4-406.

(9) Once filed with the department, the boundaries of a resort may not be changed without full hearing as above provided and the prior approval of the department, which approval shall be according to public convenience and necessity.

(10) (a) When the department has accepted a plat and a given resort area has been determined, applications may then be filed with the department by persons for the issuance of resort retail liquor licenses within the resort area.

(b) Each applicant must submit plans showing the location, appearance, and floor plan of the premises for which application for a license is made.

(c) If an applicant otherwise qualifies for a resort license but the premises to be licensed are still in construction or are otherwise incomplete at the time of such application, the department shall issue a letter stating that the license will be issued at such time as the qualifications for a licensed premises have been met, setting forth such time limitations and requirements as the department may establish.

(11) In addition to the restrictions on sale or transfer of a license as provided in 16-4-204, no resort retail liquor license may be sold or transferred for operation at a location outside of the boundaries of the resort area.

(12) ~~A resort retail liquor license shall not be subject~~

~~to the quota limitations set forth in 16-4-201, and if~~ If the requirements of this section have been met, a resort retail liquor license shall be issued by the department on the basis that the department has determined that such license is justified by public convenience and necessity, in accordance with the procedure required in 16-4-207."

Section 10. Section 16-4-203, MCA, is amended to read:

"16-4-203. Determination of public convenience and necessity. Any original license issued pursuant to ~~16-4-201~~ or 16-4-202 subsequent to April 30, 1974, shall be issued only upon the department having first determined, upon a hearing held pursuant to the Montana Administrative Procedure Act, that the issuance of such license is justified by public convenience and necessity."

Section 11. Section 16-4-204, MCA, is amended to read:

"16-4-204. Contents of license -- posting -- privilege -- transfer -- expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all

persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of the department or to any peace officer of the state of Montana.

(2) Any license issued under the provisions of this part shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(3) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling liquor under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail

liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(5) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the

department.

(6) ~~(a) A license may be transferred to a new ownership and to a location outside the quota area for which it was originally issued only when the following criteria are met:~~

~~(i) the total number of all beverages licenses in the original quota area exceeded the quota for that area by at least 25% in the most recent census;~~

~~(ii) the total number of all beverages licenses in the quota area to which the license would be transferred did not exceed that area's quota by more than 25% in the most recent census; and~~

~~(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by such a transfer.~~

~~(b) A license transferred between quota areas under this section may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee. A license transferred between quota areas under this section may be held only by natural persons. For the purpose of this section, natural persons shall not include limited partnerships or other business entities of any kind in which each natural person is not a full participant in the ownership and operation of the business authorized by the license.~~ A transfer of any all-beverages license may be made

on application to the department with the consent of the department, provided that the transferee qualifies under this code.

(7) (a) Any all-beverage licensee is, upon the approval and in the discretion of the liquor division, entitled to a catering endorsement to his all-beverage license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages, such beverages to be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of $250 must be submitted to the department for its approval.

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of $40 must be filed with the department at least 10 days prior to the event and shall describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the

licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

(d) The licensee shall file with each application for an event to be catered a written statement of approval of the premises where the event is to be held issued by the department of health and environmental sciences.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license.

(9) All licenses shall expire at midnight of June 30 of each year."

Section 12. Section 16-4-208, MCA, is amended to read:

"16-4-208. Airport all-beverages license. (1) The

department of revenue shall issue one all-beverages license, to be known as a public airport all-beverages license, for use at each publicly owned airport served by scheduled airlines and enplaning and deplaning a minimum total of 20,000 passengers annually when:

(a) application is made;

(b) upon finding that this license is justified by public convenience and necessity, including the convenience and necessity of the public traveling by scheduled airlines; and

(c) following a hearing as provided in 16-4-207.

(2) Application shall be made by the agency owning and operating the airport. The agency owning and operating the airport may lease the airport all-beverages license to an individual or entity approved by the department.

(3) A public airport all-beverages license and all retail liquor sales thereunder shall be subject to all statutes and rules governing all-beverages licenses.

~~(4)--The-department-of--revenue--shall--issue--a--public airport--all-beverages--license--to--a--qualified--applicant regardless-of-the-number-of-all-beverages--licenses--already issued--within-the-all-beverages-license-quota-area-in-which the-airport-is-situated.~~"

Section 13. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer

licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:

(a) each brewer, wherever located, whose product is sold or offered for sale within the state, $500; for each storage depot, $400;

(b) each beer wholesaler, $400; each table wine distributor, $400;

(c) each beer retailer, $200; with a wine license amendment, an additional $200;

(d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, $200;

(e) any unit of a nationally chartered veterans' organization, $50.

(2) The permit fee under 16-4-301(1) is computed at the rate of $15 a day for each day beer is sold at those events lasting 2 or more days but in no case be less than $30.

(3) The permit fee under 16-4-301(2) is $10 for the sale of beer only or $20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses shall be issued upon payment by the applicant of an annual license fee in the sum

of $300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license, is $200.

(6) The annual fee for resort retail liquor licenses within a given resort area shall be $2,000 for each license.

(7) Each licensee licensed under ~~the quotas of 16-4-201~~ [section 7] shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, $400;

(b) except as hereinafter provided, for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $500;

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $650;

(d) for each license in incorporated cities with a

population of 10,000 or more or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $800;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and shall be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and shall be paid by the applicant.

~~(f)--an--applicant--for--the--issuance--of--an--original license-to-be-located-in-areas-described-in--subsection--(d) of-this-subsection-shall-pay-a-one-time-original-license-fee of-$20,000-for-any-such-license-issued.-The-one-time-license fee-of-$20,000-shall-not-apply-to-any-transfer-or-renewal-of-a--license-duly-issued-prior-to-July-1,-1974.--All-licenses, however,-are-subject-to-the-annual-renewal-fee-of-$800.~~

(8) The fee for one all-beverage license to a public airport shall be $800. This license is nontransferable.

(9) The license fees herein provided for are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages."

Section 14. Codification. Sections 4 through 8 are intended to be codified as an integral part of Title 16, chapter 4, and the provisions contained in Title 16 apply to sections 4 through 8.

Section 15. Delayed repealer. Sections 16-4-105 and 16-4-201, MCA, are repealed effective July 1, 1995.

Section 16. Delayed effective date. Sections 4 through 13 are effective July 1, 1995.

-End-

---------- BILL NO. ------

INTRODUCED BY _____

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE USE OF CERTAIN ANNUAL POPULATION ESTIMATES AS THE BASIS FOR DETERMINING RETAIL BEER LICENSE AND ALL-BEVERAGES LICENSE QUOTAS; AND TO ELIMINATE SPECIAL CENSUS PROVISIONS; AMENDING SECTIONS 16-4-105, 16-4-201, 16-4-204, AND 16-4-502, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-105, MCA, is amended to read:

"16-4-105. Limit on retail beer licenses -- wine license amendments -- off-premises consumption. (1) Except as otherwise provided by law, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person, firm, or corporation who is approved by the department as a fit and proper person, firm, or corporation to sell beer, except that:

(a) the number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of such cities and towns shall be determined on the basis of population as

~~shown by the most recent official United States census authorized by congress~~, prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of such towns, not more than one retail beer license, which may not be used in conjunction with a retail all-beverages license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities or towns, one beer license for each 500 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities, two additional retail beer licenses for the first 2,000 inhabitants or major fraction thereof and one additional retail beer license for each additional 2,000 inhabitants, which may not be used in conjunction with retail all-beverages licenses;

(b) the number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail beer licenses that may be issued for use within such cities and towns and

within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail beer licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town.

(c) retail beer licenses of issue on March 7, 1947, and which are in excess of the foregoing limitations shall be renewable, but no new licenses may be issued in violation of such limitations;

(d) such limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if such veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949;

(e) the number of retail beer licenses that the

department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits thereof or for use at premises situated within any unincorporated town shall be as determined by the department in the exercise of its sound discretion, except that no retail beer license may be issued for any premises so situated unless the department determines that the issuance of such license is required by public convenience and necessity.

(2) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The division may issue such amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. A person holding a beer-and-wine license may sell wine for consumption on the premises. Nonretention of the beer license, for whatever reason, shall mean automatic loss of the wine amendment license.

(3) A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption only may be issued to any person, firm, or corporation who is approved by the department as a fit and proper person,

firm, or corporation to sell beer or table wine, or both, and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore licensed as a pharmacy. The number of such licenses that the department may issue is not limited by the provisions of subsection (1) of this section but shall be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause."

Section 2. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of the department may be issued to any person who is approved by the department as a fit and proper person to sell such beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of such cities and towns shall be determined on the basis of population as ~~shown--by--the--most--recent--official--United-States-census authorized-by-congress,~~ prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less

and within a distance of 5 miles from the corporate limits of such towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities

and may not exceed the foregoing limitations. ~~Notwithstanding the preceding sentence, the total population for determining the quota of a city may include with the city's population the population residing outside but within 5 miles of the city limits in a case where the number of persons residing outside but within 5 miles of the city exceeds the number of persons residing within the city. Such a determination may be made only upon a special census taken by the department or its agent at the expense of the applicant for a license under this section.~~ The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) Retail all-beverages licenses of issue on March 7, 1947, and which are in excess of the foregoing limitations shall be renewable, but no new licenses may be issued in violation of such limitations.

(4) Such limitations do not prevent the issuance of a nontransferable and nonassignable (as to ownership only) retail license to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if such veterans' or fraternal organization has been in existence for a period of 5 years

or more prior to January 1, 1949.

(5) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits thereof may not be more than one license for each 750 population of the county after excluding the population of incorporated cities and incorporated towns in such county."

Section 3. Section 16-4-204, MCA, is amended to read:

"16-4-204. Contents of license -- posting -- privilege -- transfer -- expiration. (1) Every license issued under this part shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized

representative of the department or to any peace officer of the state of Montana.

(2) Any license issued under the provisions of this part shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(3) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling liquor under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(4) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail liquor business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to

the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(5) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(6) (a) A license may be transferred to a new ownership and to a location outside the quota area for which it was originally issued only when the following criteria are met:

(i) the total number of all-beverages licenses in the

original quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred did not exceed that area's quota by more than 25% in the most recent census prescribed in 16-4-502; and

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by such a transfer.

(5) A license transferred between quota areas under this section may not be mortgaged or pledged as security and may not be transferred to another person except for a transfer by inheritance upon the death of the licensee. A license transferred between quota areas under this section may be held only by natural persons. For the purpose of this section, natural persons shall not include limited partnerships or other business entities of any kind in which each natural person is not a full participant in the ownership and operation of the business authorized by the license.

(7) (a) Any all-beverage licensee is, upon the approval and in the discretion of the liquor division, entitled to a catering endorsement to his all-beverage license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise

licensed for the sale of alcoholic beverages, such beverages to be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of $250 must be submitted to the department for its approval.

(c) A written application for each event for which the licensee intends to provide catering services, the written approval of the catering application by the sponsor of the special event, and a fee of $40 must be filed with the department at least 10 days prior to the event and shall describe the location of the premises where the event is to be held, the nature of the event, and the period during which the event is to be held. An all-beverage licensee who holds an endorsement granted under this subsection (7) may not receive approval to cater an event of which he is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business. If obtained, the licensee shall display in a prominent place on those premises, the written approval from the department for each event which is catered pursuant to this subsection.

(d) The licensee shall file with each application for an event to be catered a written statement of approval of the premises where the event is to be held issued by the department of health and environmental sciences.

(e) The sale of alcoholic beverages pursuant to a

catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(8) Except as above provided, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license.

(9) All licenses shall expire at midnight of June 30 of each year."

Section 4. Section 16-4-502, MCA, is amended to read:

"16-4-502. Census. The census taken under the direction of congress shall be the basis upon which the respective populations of the ~~municipalities~~ counties and incorporated cities or towns shall be determined~~--unless--a---direct enumeration--of--the--inhabitants--is--made--by-the-state-or municipal-corporation--in--which--case--such--later--direct enumeration-shall-constitute-such-basis. No-census-hereafter taken--may--be--such--basis--until-it-is-published-under-the authority-under-which-the-same-is-taken,-and-then-its-effect

~~shall-be-prospective-only-from-the-date-of-such-publication.~~ However, in the interim between censuses, the department shall use as such basis the most recent population estimates published by the bureau of the census, United States department of commerce."

-End-

APPENDIX A

MONTANA MTA Tavern Association
Affiliated and Associated with the NLBA and the LBI
STATE HEADQUARTERS / 9 EDWARDS / HELENA, MONTANA 59601
P.O. BOX 851 / PHONE 442-5040

January 12, 1980

TO: Senator Jean Turnage, Chairman, and Members of the Legislative Revenue Oversight Committee

The attached statistical compilations were prepared by the Montana Tavern Association:

1. ANALYSIS OF MORTGAGES HELD ON EXISTING ALL-BEVERAGE LICENSES

   (Source: Department of Revenue Printout showing details of all retail licenses, dated January 4, 1980.)

2. PROJECTED POPULATION CHANGES - 1980 CENSUS; QUOTA COMPARISON (1970-1980) AND PROJECTED QUOTA CHANGES

   (Source: DCA Incorporated City and Town Projections 1980-2000, supplement of July 1978, pp. 10-16.)

3. CITIES/COUNTIES EXPERIENCING CHANGE (1970-1980); PROJECTED STATUS OF AVAILABLE ORIGINAL & FLOATER LICENSES.

   (Source: DOR and DCA reports cited above)

4. ANALYSIS OF PROJECTED QUOTA CHANGES - 1985 CENSUS

   (Source: DOR and DCA reports cited above)

ANALYSIS OF MORTGAGES HELD ON EXISTING ALL-BEVERAGE LICENSES

January 1980

County	1ST MORTGAGE Banks	1ST MORTGAGE Indiv./ Corps.	1ST MORTGAGE Govt. Entities	1ST MORTGAGE Total	Licenses Issued	Pct. 1st Mtg.	2ND MORTGAGE Banks	2ND MORTGAGE Indiv./ Corps.	Third Mtg.
BEAVERHEAD	7	11		18	31	58%		3	
BIG HORN	5	4	1	10	15	67		1	
BLAINE	3	7	1	11	17	65		2	1
BROADWATER	5	2		7	10	70		2	1
CARBON	9	14		23	33	70		5	
CARTER		3		3	6	50			
CASCADE	40	32	1	73	108	68	4	20	3
CHOUTEAU	5	4		9	16	56		3	
CUSTER	3	8		11	22	50	2	4	2
DANIELS	3	5		8	11	73		1	
DAWSON	6	2		8	12	67			
DEER LODGE	13	8	1	22	40	55		2	
FALLON	3	5		8	9	89			
FERGUS	4	10		14	25	56		4	
FLATHEAD	22	34		56	70	80	2	17	4
GALLATIN	12	24		36	48	75	2	7	
GARFIELD	1	2		3	4	75		1	
GLACIER	7	8	2	17	23	74			
GOLDEN VALLEY	2	1		3	4	75		1	
GRANITE	4	9		13	14	93	1	1	
HILL	13	9		22	29	76	1	3	1
JEFFERSON	4	4		8	14	57		3	

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ANALYSIS OF MORTGAGES HELD ON EXISTING ALL-BEVERAGE LICENSES (Page 2)

January 1980

County	1ST MORTGAGE Banks	1ST MORTGAGE Indiv./ Corps.	1ST MORTGAGE Govt. Entities	1ST MORTGAGE Total	Licenses Issued	Pct. 1st Mtg.	2ND MORTGAGE Banks	2ND MORTGAGE Indiv./ Corps.	Third Mtg.
JUDITH BASIN	2	6		8	10	80%		3	
LAKE	7	21	1	29	34	85		6	
LEWIS & CLARK	23	26	1	50	59	85	3	7	1
LIBERTY	1	4		5	6	83			
LINCOLN	17	12	1	30	34	88		5	
MADISON	8	7	1	16	28	57		3	
McCONE	4	1		5	8	63			
MEAGHER		8		8	12	67		2	
MINERAL	5	9		14	16	88		1	1
MISSOULA	21	46		67	85	79	4	16	5
MUSSELSHELL	3	3		6	17	35	1		
PARK	8	18		26	36	72	1	13	2
PETROLEUM	1			1	1	100		1	1
PHILLIPS	5	6		11	17	65		1	
PONDERA	6	6		12	13	92		2	
POWDER RIVER		1		1	3	33			
POWELL	4	7		11	18	61		3	
PRAIRIE		3		3	5	60		1	
RAVALLI	5	18		23	32	72		8	4
RICHLAND	1	9	1	11	15	73	1	2	
ROOSEVELT	10	6		16	23	70		1	
ROSEBUD	3	7		10	17	59		1	

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ANALYSIS OF MORTGAGES HELD ON EXISTING ALL-BEVERAGE LICENSES

January 1980

County	1ST MORTGAGE Banks	1ST MORTGAGE Indiv./ Corps.	1ST MORTGAGE Govt. Entities	1ST MORTGAGE Total	Licenses Issued	Pct. 1st Mtg.	2ND MORTGAGE Banks	2ND MORTGAGE Indiv./ Corps.	Third Mtg.
SANDERS	3	13		16	19	84%	1	2	
SHERIDAN	6	3		9	15	60			
SILVER BOW	12	27	2	41	95	43		7	
STILLWATER	2	9		11	12	92		5	1
SWEET GRASS	2	4		6	9	67			
TETON	4	7		11	15	73	1	2	
TOOLE	5	13		18	25	72			
TREASURE	1	1		2	2	100		1	
VALLEY	7	8		15	26	58	1	1	
WHEATLAND		6		6	10	60			
WIBAUX	2	2		4	5	80			
YELLOWSTONE	19	23		42	82	51	3	8	4
TOTALS....	368	546	13	927	1,365	68%	28	182	31

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PROJECTED POPULATION CHANGES - 1980 CENSUS
QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
BEAVERHEAD	3,288			3,250			(38)	4	4	15	11-	
Dillon		4,548			4,600		52	6	6	14	8-	
Lima		351			350		(1)	2	2	2	Even	
			8,187			8,200						
BIG HORN	6,518			7,350			832	8	9	3	6+	
Hardin		2,733			3,150		417	4	5	12	7-	
Lodge Grass		806			900		94	2	2	-	2+	
			10,057			11,400						
BLAINE	3,820			3,750			(70)	5	5	6	1-	
Chinook		1,813			1,800		(13)	3	3	7	4-	
Harlem		1,094			1,150		56	3	3	4	1-	
			6,727			6,700						
BROADWATER	1,155				1,400		245	1	1	5	4-	
Townsend		1,371		1,700			329	3	3	5	2-	
			2,526			3,100						
CARBON	3,712			4,250			538	4	5	10	5-	
Fromberg		364			450		86	2	2	3	1-	
Bridger		717			1,100		383	2	3	4	1-	
Joliet		412			550		138	2	2	2	Even	
Red Lodge		1,844			2,500		656	3	4	13	9-	
Bear Creek		31			50		19	2	2	1	1+	
			7,080			8,900						
CARTER	1,293			1,200			(93)	1	1	2	1-	
Ekalaka		663			600		(63)	2	2	4	2-	
			1,956			1,800						

PROJECTED POPULATION CHANGES - 1980 CENSUS
QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
CASCADE	20,234			21,600			1,366	26	28	25	3+	
Belt		656			700		44	2	2	4	2-	
Cascade		714			700		(14)	2	2	4	2-	
Great Falls		60,091			62,500		2,409	43	44	73	29-	
Neihart		109			100		(9)	2	2	2	Even	
			81,804			85,600						
CHOUTEAU	3,413			3,300			(113)	4	4	4	Even	
Big Sandy		827			800		(27)	2	2	4	2-	
Fort Benton		1,863			1,850		(13)	3	3	6	3-	
Geraldine		370			350		(20)	2	2	2	Even	
			6,473			6,300						
CUSTER	3,111			3,350			239	4	4	3	1+	
Ismay		40			50		10	2	2	-	2+	
Miles City		9,023			9,700		677	9	9	19	10-	
			12,174			13,100						
DANIELS	1,412			1,350			(62)	1	1	3	2-	
Flaxville		185			200		15	2	2	2	Even	
Scobey		1,486			1,550		64	3	3	6	3-	
			3,083			3,100						
DAWSON	4,575			4,650			75	6	6	1	5+	
Glendive		6,305			6,150		(155)	7	7	10	3-	
Richey		389			400		11	2	2	1	1+	
			11,269			11,200						

PROJECTED POPULATION CHANGES - 1980 CENSUS
QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
DEER LODGE	5,881			4,950			(931)	7	7	7	Even	
Anaconda		9,771			8,550		(1,221)	9	9	33	24-	
			15,652			13,500						
FALLON	1,277			1,250			(27)	1	1	1	Even	
Baker		2,584			2,650		66	4	4	6	2-	
Plevna		189			200		11	2	2	2	Even	
			4,050			4,100						
FERGUS	5,186			5,500			314	6	7	5	2+	
Denton		398			400		2	2	2	2	Even	
Grass Range		181			200		19	2	2	2	Even	
Lewistown		6,437			6,800		363	7	7	12	5-	
Moore		219			200		(19)	2	2	2	Even	
Winifred		190			200		10	2	2	2	Even	
			12,611			13,300						
FLATHEAD	22,933			25,550			2,617	30	34	30	4+	2
Columbia Falls		2,652			3,300		648	4	5	11	6-	
Kalispell		10,526			16,150		5,624	10	13	19	6-	
Whitefish		3,349			3,900		551	5	5	10	5-	
			39,460			48,900						
GALLATIN	9,768			13,750			3,982	13	18	13	5+	1
Belgrade		1,307			1,950		643	3	3	4	1-	
Bozeman		18,670			21,300		2,630	15	17	15	2+	4
Manhattan		816			950		134	2	2	3	1-	
Three Forks		1,188			1,450		262	3	3	5	2-	
W. Yellowstone		756			800		44	2	2	8	6-	
			32,505			40,200						

PROJECTED POPULATION CHANGES - 1980 CENSUS

QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
GARFIELD	1,267			1,250			(17)	1	1	1	Even	
Jordan		529	1,796		550	1,800	21	2	2	3	1-	
GLACIER	5,079			5,500			421	6	7	8	1-	
Browning		1,700			1,800		100	3	3	4	1-	
Cut Bank		4,004	10,783		3,900	11,200	(104)	5	5	11	6-	
GOLDEN VALLEY	501			500			(1)	0	0	0	Even	
Lavina		169			200		31	2	2	2	Even	
Ryegate		261	931		300	1,000	39	2	2	2	Even	
GRANITE	1,115			1,200			85	1	1	4	3-	
Drummond		494			500		6	2	2	4	2-	
Philipsburg		1,128	2,737		1,000	2,700	(128)	3	3	6	3-	
HILL	6,538			6,850			312	8	9	9	Even	
Havre		10,558			11,100		542	10	10	18	8-	
Hingham		262	17,358		250	18,200	(12)	2	2	2	Even	
JEFFERSON	2,861			4,750			1,889	3	6	5	1+	
Boulder		1,342			1,100		(242)	3	3	4	1-	
Whitehall		1,035	5,238		1,450	7,300	415	3	3	5	2-	

PROJECTED POPULATION CHANGES - 1980 CENSUS
QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
JUDITH BASIN	1,970			2,000			30	2	2	5	3-	
Hobson		192			200		8	2	2	2	Even	
Stanford		505			500		(5)	2	2	3	1-	
			2,667			2,700						
LAKE	9,709			12,600			2,891	12	16	12	4+	
Polson		2,464			3,000		536	4	5	9	4-	
Ronan		1,347			1,500		153	3	3	7	4-	
St. Ignatius		925			900		(25)	2	2	6	4-	
			14,445			18,000						
LEWIS & CLARK	8,900			11,350			2,450	11	15	20	5-	
East Helena		1,651			2,050		399	3	4	5	1-	
Helena		22,730			27,500		4,770	18	21	34	13-	
			33,281			40,900						
LIBERTY	1,423			1,500			77	1	2	1	1+	
Chester		936			1,000		64	2	3	5	2-	
			2,359			2,500						
LINCOLN	12,293			12,350			57	16	16	17	1-	
Eureka		1,195			1,050		(145)	3	3	3	Even	
Libby		3,286			3,250		(36)	5	5	6	1-	
Rexford		243			150		(93)	2	2	2	Even	
Troy		1,046			1,100		54	3	3	6	3-	
			18,063			17,900						

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PROJECTED POPULATION CHANGES - 1980 CENSUS
QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
McCONE	1,911			1,550			(361)	2	2	4	2-	
Circle		964	2,875		1,050	2,600	86	2	3	4	1-	
MADISON	3,115			3,450			335	4	4	13	9-	
Ennis		501			550		49	2	2	4	2-	
Sheridan		636			750		114	2	2	4	2-	
Twin Bridges		613			750		137	2	2	3	1-	
Virginia City		149	5,014		200	5,700	51	2	2	4	2-	
MEAGHER	922			900			(22)	1	1	5	4-	
Wh.Sulph.Spgs.		1,200	2,122		1,400	2,300	200	3	3	7	4-	
MINERAL	1,602			2,100			498	2	2	10	8-	
Alberton		363			500		137	2	2	2	Even	
Superior		993	2,958		1,100	3,700	107	2	2	4	2-	
MISSOULA	28,766			38,200			9,434	38	50	32	18+	
Missoula		29,497	58,263		31,300	69,500	1,803	22	23	53	30-	
MUSSELSHELL	1,391			1,750			359	1	2	1	1+	
Melstone		227			250		23	2	2	2	Even	
Roundup		2,116	3,734		2,400	4,400	284	4	4	14	10-	

PROJECTED POPULATION CHANGES - 1980 CENSUS
QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
PARK	4,070			5,200			1,130	5	6	15	9-	
Livingston		5,883			7,300		1,417	7	7	19	12-	
Clyde Park		244			300		56	2	2	2	Even	
			10,197			12,800						
PETROLEUM	404			450			46	0	0	0	Even	
Winnett		271			250		(21)	2	2	1	1+	
			675			700						
PHILLIPS	2,639			2,650			11	3	3	4	1-	
Dodson		196			200		4	2	2	2	Even	
Malta		2,195			2,300		105	4	4	9	5-	
Saco		356			350		(6)	2	2	2	Even	
			5,386			5,500						
PONDERA	3,190			3,050			(140)	4	4	4	Even	
Conrad		2,770			3,350		580	4	5	6	1-	
Valier		651			700		49	2	2	3	1-	
			6,611			7,100						
POWDER RIVER	2,063			1,850			(213)	2	2	1	1+	
Broadus		799			750		(49)	2	2	2	Even	1
			2,862			2,600						
POWELL	2,354			2,850			496	3	3	10	7-	
Deer Lodge		4,306			5,150		844	5	6	8	2-	
			6,660			8,000						

PROJECTED POPULATION CHANGES - 1980 CENSUS

QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
PRAIRIE	882			900			18	1	1	2	1-	
Terry		870	1,752		900	1,800	30	2	2	3	1-	
RAVALLI	10,543			15,300			4,757	14	20	13	7+	
Hamilton		2,499			3,350		851	4	5	11	6-	
Stevensville		829			1,300		471	2	2	5	3-	
Darby		538	14,409		550	20,500	12	2	2	3	1-	
RICHLAND	4,338			4,550			212	5	6	4	2+	
Fairview		956			1,000		44	2	3	3	Even	
Sidney		4,543	9,837		4,850	10,400	307	6	6	8	2-	
ROOSEVELT	4,112			3,850			(262)	5	5	2	3+	
Brockton		401			400		(1)	2	2	1	1+	
Bainville		217			200		(17)	2	2	2	Even	
Culbertson		821			850		29	2	2	3	1-	
Froid		330			300		(30)	2	2	2	Even	
Poplar		1,389			1,450		61	3	3	5	2-	
Wolf Point		3,095	10,365		3,650	10,700	555	5	5	8	3-	
ROSEBUD	7,129			8,000			871	9	10	7	3+	
Forsyth		2,449	9,578		2,100	10,100	(349)	4	4	10	6-	

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PROJECTED POPULATION CHANGES - 1980 CENSUS

QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
SANDERS	4,027			5,150			1,123	5	6	10	4-	
Hot Springs		664			700		36	2	2	3	1-	
Plains		1,046			1,200		154	3	3	3	Even	
Thompson Falls		1,356			1,550		194	3	3	3	Even	
			7,093			8,600						
SHERIDAN	2,565			2,400			(165)	3	3	4	1-	
Medicine Lake		393			350		(43)	2	2	2	Even	
Outlook		153			100		(53)	2	2	1	1+	
Plentywood		2,381			2,300		(81)	4	4	6	2-	
Westby		287			250		(37)	2	2	2	Even	
			5,779			5,400						
SILVER BOW	17,516			16,950			(566)	23	23	5	18+	
Butte		23,368			22,950		(418)	18	18	88	70-	
Walkerville		1,097			1,000		(97)	3	3	2	1+	
			41,981			40,900						
STILLWATER	3,459			4,150			691	4	5	9	4-	
Columbus		1,173			1,350		177	3	3	3	Even	
			4,632			5,500						
SWEETGRASS	1,388			1,450			62	1	1	3	2-	
Big Timber		1,592			1,850		258	3	3	6	3-	
			2.980			3,300						

PROJECTED POPULATION CHANGES - 1980 CENSUS

QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
TETON	3,477			3,600			123	4	4	6	2-	
Choteau		1,586			1,650		64	3	3	4	1-	
Dutton		415			400		(15)	2	2	2	Even	
Fairfield		638			650		12	2	2	3	1-	
			6,116			6,300						
TOOLE	1,894			1,650			(224)	2	2	10	8-	
Kevin		250			200		(50)	2	2	3	1-	
Shelby		3,111			2,900		(211)	5	5	10	5-	
Sunburst		604			550		(54)	2	2	2	Even	
			5,839			5,300						
TREASURE	696			600			(96)	0	0	0	Even	
Hysham		373			600		227	2	2	2	Even	
			1,069			1,200						
VALLEY	5,952			6,950			998	7	9	9	Even	
Glasgow		4,700			5,400		700	6	6	11	5-	
Nashua		513			600		87	2	2	3	1-	
Opheim		306			350		44	2	2	3	1-	
			11,471			13,300						
WHEATLAND	994			1,000			6	1	1	2	1-	
Harlowton		1,375			1,350		(25)	3	3	6	3-	
Judith Gap		160			150		(10)	2	2	2	Even	
			2,529			2,500						

PROJECTED POPULATION CHANGES - 1980 CENSUS

QUOTA COMPARISON (1970-80) AND PROJECTED QUOTA CHANGES

	1970 CENSUS			1980 CENSUS				QUOTA				
	Outside Incorp. Cities	Cities	County Total	Outside Incorp. Cities	Cities	County Total	Inc. or Decrease	1970	1980	Lic. Issued	Over/ Under	Floater Issued
WIBAUX	821			850			29	1	1	0	1+	
Wibaux		644			650		6	2	2	5	3-	
			1,465			1,500						
YELLOWSTONE	21,209			24,950			3,741	28	33	20	13+	
Billings		61,581			77,350		15,769	44	54	53	1+	3
Broadview		123			100		(23)	2	2	2	Even	
Laurel		4,454			7,300		2,846	5	7	7	Even	
			87,367			109,700						
TOTALS	292,641			332,600								
		404,250			452,900							
			696,891			785,500	88,609	883	976	1,365	389-	11

CITIES/COUNTIES EXPERIENCING CHANGE (1970-1980)

PROJECTED STATUS OF AVAILABLE ORIGINAL & FLOATER LICENSES

	1970	1980	Inc.	Orig. Issued County	Orig. Issued City	Orig. Avail. County	Orig. Avail. City	Floaters Now Iss.	Floaters Available '80 County	Floaters Available '80 City
BEAVERHEAD										
Lima	2	2			2		-			1
BIG HORN	8	9	1	3		6			3	
Hardin	4	5	1		12		-			
Lodge Grass	2	2			-		2			1
BLAINE	5	5		6		-			1	
BROADWATER (N/C)										
CARBON	4	5	1	10		-				
Bridger	2	3	1		4		-			
Joliet	2	2			2		-			1
Red Lodge	3	4	1		13		-			
Bear Creek	2	2			1		1			1
CARTER (N/C)										
CASCADE	26	28	2	25		3			7	
Great Falls	43	44	1		73		-			
Neihart	2	2			2		-			1
CHOUTEAU	4	4		4		-			1	
Geraldine	2	2			2		-			1
CUSTER	4	4		3		1			1	
Ismay	2	2			-		2			1
DANIELS										
Flaxville	2	2			2		-			1
DAWSON	6	6		1		5			2	
Richey	2	2			1		1			1

	1970	1980	Inc.	Orig. Issued County	Orig. Issued City	Orig. Avail. County	Orig. Avail. City	Floaters Now Iss.	Floaters Available'80 County	Floaters Available'80 City
DEER LODGE	7	7		7		-			2	
FALLON	1	1		1		-			1	
Plevna	2	2			2		-			1
FERGUS	6	7	1	5		2			2	
Denton	2	2			2		-			1
Grass Range	2	2			2		-			1
Moore	2	2			2		-			1
Winifred	2	2			2		-			1
FLATHEAD	30	34	4	30		4		2	7	
Col. Falls	4	5	1		11		-			
Kalispell	10	13	3		19		-			
GALLATIN	13	18	5	13		5		1	4	
Bozeman	15	17	2		15		2	4		1
GARFIELD	1	1		1		-			1	
GLACIER	6	7	1	8		-			1	
GOLDEN VALLEY										
Lavina	2	2			2		-			1
Ryegate	2	2			2		-			1
GRANITE (N/C)										
HILL	8	9	1	9		-			3	
Hingham	2	2			2		-			1
JEFFERSON	3	6	3	5		1			2	
JUDITH BASIN										
Hobson	2	2			2		-			1

	1970	1980	Inc.	Orig. Issued County	Orig. Issued City	Orig. Avail. County	Orig. Avail. City	Floaters Now Iss.	Floaters Available'80 County	Floaters Available'80 City
LAKE	12	16	4	12		4			4	
Polson	4	5	1		9		-			
LEWIS & CLARK	11	15	4	20		-				
East Helena	3	4	1		5		-			
Helena	18	21	3		34		-			
LIBERTY	1	2	1	1		1			1	
Chester	2	3	1		5		-			
LINCOLN	16	16		17		-			3	
Eureka	3	3			3		-			1
Libby	5	5			6		-			1
Rexford	2	2			2		-			1
McCONE										
Circle	2	3	1		4		-			1
MADISON (N/C)										
MEAGHER (N/C)										
MINERAL										
Alberton	2	2			2		-			1
MISSOULA	38	50	12	32		18				13
Missoula	22	23	1		53		-			
MUSSELSHELL	1	2	1	1		1				1
Melstone	2	2			2		-			1
PARK	5	6	1	15		-				
Clyde Park	2	2			2		-			1

	1970	1980	Inc.	Orig. Issued County	Orig. Issued City	Orig. Avail. County	Orig. Avail. City	Floaters Now Iss.	Floaters Available '80 County	Floaters Available '80 City
PETROLEUM										
Winnett	2	2			1		1			1
PHILLIPS										
Dodson	2	2			2		-			1
Saco	2	2			2		-			1
PONDERA	4	4		4		-			1	
Conrad	4	5	1		6		-			1
POWDER RIVER	2	2		1		1			1	
Broadus	2	2			2		-	1		-
POWELL										
Deer Lodge	5	6	1		8		-			
PRAIRIE (N/C)										
RAVALLI	14	20	6	13		7			5	
Hamilton	4	5	1		11		-			
RICHLAND	5	6	1	4		2			2	
Fairview	2	3	1		3		-			1
ROOSEVELT	5	5		2		3			2	
Brockton	2	2			1		1			1
Bainville	2	2			2		-			1
Froid	2	2			2		-			1
ROSEBUD	9	10	1	7		3			3	
SANDERS	5	6	1	10		-				
Plains	3	3			3		-			1
Thompson Falls	3	3			3		-			1

	1970	1980	Inc.	Orig. Issued County	Orig. Issued City	Orig. Avail. County	Orig. Avail. City	Floaters Now Iss.	Floaters Available'80 County	Floaters Available'80 City
SHERIDAN										
Medicine Lake	2	2			2		-			1
Outlook	2	2			1		1			1
Westby	2	2			2		-			1
SILVER BOW	23	23		5		18			6	
Walkerville	3	3			2		1			1
STILLWATER	4	5	1	9		-				
Columbus	3	3			3		-			1
SWEETGRASS (N/C)										
TETON										
Dutton	2	2			2		-			1
TOOLE										
Sunburst	2	2			2		-			1
TREASURE										
Hysham	2	2			2		-			1
VALLEY	7	9	2	9		-			3	
WHEATLAND										
Judith Gap	2	2			2		-			1
WIBAUX	1	1		-		1			1	
YELLOWSTONE	28	33	5	20		13			9	
Billings	44	54	10		53		1	3		11
Broadview	2	2			2		-			1
Laurel	5	7	2		7		-			2
			93			99	19	11	79	73

ANALYSIS OF PROJECTED QUOTA CHANGES - 1985 CENSUS

(Counties, cities and towns not listed would experience no quota changes.)

	Increase	Over/Under 1980	Status 1985
BIG HORN	1+	6+	7+
CASCADE	1+	3+	4+
Great Falls	2+	29-	27-
FLATHEAD	2+	4+	6+
Kalispell	1+	6-	5-
GALLATIN	1+	5+	6+
Bozeman	1+	2+	3+
JEFFERSON	1+	1+	2+
LAKE	1+	4+	5+
LEWIS & CLARK	1+	5-	4-
Helena	2+	13-	11-
MISSOULA	4+	18+	22+
Missoula	2+	30-	28-
PARK	1+	9-	8-
RAVALLI	1+	7+	8+
ROSEBUD	1+	3+	4+
YELLOWSTONE	4+	13+	17+
Billings	7+	1+	8+
Laurel	1+	0	1+
	35		

MONTANA TAVERN ASSOCIATION TESTIMONY PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE REGARDING LC 18 AT THE MAY 10, 1980 Meeting

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
BEAVERHEAD	3,250	4	3,250	6	3,250	9	3,250	18	15	3	
Dillon	4,600	6	4,600	8	4,600	10	4,600	12	14		2
Lima	350	2	350	3	350	4	350	5	2	3	
BIG HORN	7,350	9	8,000	14	8,650	23	9,000	50	3	47	
Hardin	3,150	5	3,400	6	3,700	7	3,800	8	12		4
Lodge Grass	900	2	1,000	4	1,050	5	1,100	6	0	6	
BLAINE	3,750	5	3,650	7	3,650	10	3,650	20	6	14	
Chinook	1,800	3	1,800	4	1,750	5	1,750	6	7		1
Harlem	1,150	3	1,150	4	1,100	5	1,100	6	4	2	
BROADWATER	1,400	1	1,400	3	1,400	4	1,400	8	5	3	
Townsend	1,700	3	1,700	4	1,700	5	1,700	6	5	1	
CARBON	4,250	5	4,400	8	4,600	12	4,900	27	10	17	
Bearcreek	50	2	50	3	50	4	50	5	1	4	
Bridger	1,100	3	1,100	4	1,200	5	1,250	6	4	2	
Fromberg	450	2	450	3	500	4	500	5	3	2	
Joliet	550	2	600	3	600	4	650	5	2	3	
Red Lodge	2,500	4	2,600	6	2,750	8	2,850	10	13		3
CARTER	1,200	1	1,200	2	1,100	3	1,050	6	2	4	
Ekalaka	600	2	600	3	600	4	550	5	4	1	
CASCADE	21,600	28	22,350	40	23,450	63	24,450	136	25	111	
Belt	700	2	700	3	750	4	800	5	4	1	
Cascade	700	2	750	3	800	4	800	5	4	1	
Great Falls	62,500	44	65,100	88	67,900	136	71,050	188	73	115	
Neihart	100	2	100	3	100	4	100	5	2	3	

APPENDIX B

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
CHOUTEAU	3,300	4	3,250	6	3,150	9	3,100	17	4	13	
Big Sandy	800	2	800	3	800	4	750	5	4	1	
Fort Benton	1,950	3	1,800	4	1,800	5	1,700	6	6	0	
Geraldine	350	2	350	3	350	4	350	5	2	3	
CUSTER	3,350	4	3,400	6	3,450	9	3,500	19	3	16	
Ismay	50	2	50	3	50	4	50	5	0	5	
Miles City	9,700	9	9,950	14	10,000	19	10,150	24	19	5	
DANIELS	1,350	1	1,250	2	1,200	3	1,200	7	3	4	
Flaxville	200	2	200	3	250	4	200	5	2	3	
Scobey	1,550	3	1,450	4	2,250	8	2,200	10	6	4	
DAWSON	4,650	6	4,650	8	4,700	13	4,800	27	1	26	
Glendive	6,150	7	6,150	10	6,150	13	6,250	16	10	6	
Richey	400	2	400	3	350	4	350	5	1	4	
DEER LODGE	4,950	6	4,850	7	4,750	13	4,650	26	7	19	
Anaconda	8,550	9	8,450	12	8,250	16	8,050	20	33		13
FALLON	1,250	1	1,250	2	1,250	3	1,250	7	1	6	
Baker	2,650	4	2,650	6	2,650	8	2,650	10	6	4	
Plevna	200	2	200	3	200	4	200	5	2	3	
FERGUS	5,500	7	5,500	10	5,500	15	5,550	31	5	26	
Denton	400	2	400	3	400	4	400	5	2	3	
Grass Range	200	2	200	3	200	4	200	5	2	3	
Lewistown	6,800	7	6,800	10	6,800	13	6,850	16	12	4	
Moore	200	2	200	3	200	4	200	5	2	3	
Winifred	200	2	200	3	200	4	200	5	2	3	

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
FLATHEAD	25,550	34	27,450	49	29,050	79	30,650	170	30	140	
Columbia Falls	3,300	5	3,500	6	3,750	7	3,900	8	11		3
Kalispell	16,150	13	17,350	24	18,350	37	19,350	48	19	29	
Whitefish	3,900	5	4,200	6	4,450	7	4,700	12	10	2	
GALLATIN	13,750	18	14,950	27	15,800	43	16,700	93	13	80	
Belgrade	1,950	3	2,150	6	2,250	8	2,400	10	4	6	
Bozeman	21,300	17	23,150	32	24,550	49	25,900	68	15	53	
Manhattan	950	2	1,050	4	1,100	5	1,150	6	3	2	
Three Forks	1,450	3	1,550	4	1,650	5	1,750	6	5	1	
West Yellowstone	800	2	850	3	950	4	1,000	6	8		2
GARFIELD	1,250	1	1,250	2	1,200	3	1,200	7	1	6	
Jordan	550	2	550	3	500	4	500	5	3	2	
GLACIER	5,500	7	5,550	10	5,700	15	5,850	33	8	25	
Browning	1,800	3	1,800	4	1,850	5	1,900	6	4	2	
Cut Bank	3,900	5	3,950	6	4,050	7	4,150	8	11		3
GOLDEN VALLEY	500	0	500	0	500	1	500	3	0	3	
Lavina	200	2	200	3	150	4	150	5	2	3	
Ryegate	300	2	300	3	250	4	250	5	2	3	
GRANITE	1,200	1	1,300	2	1,300	4	1,300	7	4	3	
Drummond	500	2	500	3	500	4	500	5	4	1	
Philipsburg	1,000	3	1,000	4	1,000	5	1,000	6	6	0	
HILL	6,850	9	7,000	13	7,150	19	7,400	41	9	32	
Havre	11,100	10	11,400	16	11,750	22	12,100	32	18	14	
Hingham	250	2	300	3	300	4	300	5	2	3	

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
JEFFERSON	4,750	6	5,400	10	5,550	15	6,550	36	5	31	
Boulder	1,100	3	1,100	4	1,100	5	1,100	6	4	2	
Whitehall	1,450	3	1,500	4	1,550	5	1,750	6	5	1	
JUDITH BASIN	2,000	2	1,900	3	1,750	5	1,700	9	5	4	
Hobson	200	2	200	3	200	4	150	5	2	3	
Stanford	500	2	500	3	450	4	450	5	3	2	
LAKE	12,600	16	12,950	23	13,300	36	13,650	76	12	64	
Polson	3,000	5	3,100	6	3,150	7	3,850	8	9		1
Ronan	1,500	3	1,550	4	1,550	5	1,600	6	7		1
St. Ignatius	900	2	900	3	900	4	900	5	6		1
LIBERTY	1,500	2	1,450	3	1,400	4	1,400	8	1	7	
Chester	1,000	3	950	3	900	4	900	5	5	-	
LINCOLN	12,350	16	12,450	22	12,600	34	12,800	71	17	54	
Eureka	1,050	3	1,100	4	1,100	5	1,100	6	3	3	
Libby	3,250	5	3,300	6	3,350	7	3,400	8	6	2	
Rexford	150	2	150	3	150	4	150	5	2	3	
Troy	1,100	3	1,100	4	1,100	5	1,150	6	6	-	
McCONE	1,550	3	1,550	3	1,450	4	1,400	8	4	2	
Circle	1,050	3	1,050	4	1,050	5	1,000	6	4	2	
MADISON	3,450	4	3,500	6	3,500	9	3,450	19	13	6	
Ennis	550	2	600	3	600	4	550	5	4	1	
Sheridan	750	2	750	3	750	4	750	5	4	1	
Twin Bridges	750	2	750	3	750	4	750	5	3	2	
Virginia City	200	2	200	3	200	4	200	5	4	1	

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
MEAGHER	900	1	900	1	900	2	900	5	5	0	
White Sulphur Spgs.	1,400	3	1,400	4	1,400	5	1,400	6	7		1
MINERAL	2,100	2	2,200	3	2,200	5	2,300	12	10	2	
Alberton	500	2	500	3	550	4	550	5	2	3	
Superior	1,100	3	1,100	4	1,150	5	1,150	6	4	2	
MISSOULA	38,200	50	40,800	72	43,050	116	46,000	255	32	223	
Missoula	31,300	23	33,300	46	35,250	70	37,600	100	53	47	
MUSSELSHELL	1,750	2	1,850	3	1,850	5	1,850	10	1	9	
Melstone	250	2	250	3	250	4	250	5	2	3	
Roundup	2,400	4	2,500	6	2,500	8	2,500	10	14		4
PARK	5,200	6	5,350	9	5,500	14	5,650	31	15	16	
Clyde Park	300	2	300	3	300	4	300	5	2	3	
Livingston	7,300	7	7,450	11	7,700	16	7,850	20	19	1	
PETROLEUM	450	0	400	0	400	1	350	1	0	1	
Winnett	250	2	200	3	200	4	150	5	1	4	
PHILLIPS	2,650	3	2,550	4	2,550	6	2,500	13	4	9	
Dodson	200	2	150	3	150	4	150	5	2	3	
Malta	2,300	4	2,250	6	2,200	8	2,200	10	9	1	
Saco	350	2	350	3	350	4	350	5	2	3	
PONDERA	3,050	4	3,000	5	2,950	7	2,900	16	4	12	
Conrad	3,350	5	3,300	6	3,200	7	3,150	8	6	2	
Valier	700	2	700	3	650	4	650	5	3	2	

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
SANDERS	5,150	6	5,100	9	5,250	14	5,450	30	10	20	
Hot Springs	700	2	750	3	750	4	750	5	3	2	
Plains	1,200	3	1,250	4	1,250	5	1,300	6	3	3	
Thompson Falls	1,550	3	1,600	4	1,650	5	1,700	6	3	3	
SHERIDAN	2,400	3	2,300	4	2,300	6	2,250	12	4	8	
Medicine Lake	350	2	350	3	350	4	350	5	2	3	
Outlook	100	2	100	3	100	4	100	5	1	4	
Plentywood	2,300	4	2,200	6	2,200	8	2,150	10	6	4	
Westby	250	2	250	3	250	4	250	5	2	3	
SILVER BOW	16,950	22	16,850	30	16,750	45	16,750	93	5	88	
Butte	22,950	18	22,850	32	22,750	46	22,750	60	88		28
Walkerville	1,000	3	1,000	4	1,000	5	1,000	6	2	4	
STILLWATER	4,150	5	4,100	7	5,100	13	4,900	27	9	18	
Columbus	1,350	3	1,300	4	1,700	5	1,600	6	3	3	
SWEET GRASS	1,450	1	1,450	2	1,600	4	1,600	8	3	5	
Big Timber	1,850	3	1,750	4	2,100	8	2,100	10	6	4	
TETON	3,600	4	3,600	6	3,500	9	3,450	19	6	13	
Choteau	1,650	3	1,650	4	1,650	5	1,600	6	4	2	
Dutton	400	2	400	3	400	4	400	5	2	3	
Fairfield	650	2	650	3	650	4	650	5	3	2	
TOOLE	1,650	2	1,700	3	1,700	4	1,750	9	10		1
Kevin	200	2	200	3	200	4	200	5	3	2	
Shelby	2,900	4	2,950	6	2,950	8	3,000	8	10		2
Sunburst	550	2	550	3	550	4	550	5	2	3	

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
POWDER RIVER	1,850	2	1,900	3	1,950	5	1,850	10	1	9	
Broadus	750	2	750	3	750	4	750	5	2	3	
POWELL	2,850	3	2,900	5	2,950	7	3,000	16	8	8	
Deer Lodge	5,150	6	5,300	8	5,350	10	5,500	12	8	4	
PRAIRIE	900	1	900	1	850	2	850	4	2	2	
Terry	900	2	900	3	850	4	850	5	3	2	
RAVALLI	15,300	20	16,000	28	16,900	45	17,850	99	13	86	
Darby	550	2	550	3	550	4	550	5	3	2	
Hamilton	3,350	5	3,500	6	3,800	7	3,900	8	11		3
Stevensville	1,300	3	1,350	4	1,450	5	1,500	6	5	1	
RICHLAND	4,550	6	4,550	8	4,450	12	4,450	24	4	20	
Fairview	1,000	3	950	3	950	4	900	5	3	2	
Sidney	4,850	6	4,800	8	4,800	10	4,750	12	8	4	
ROOSEVELT	3,850	5	4,000	7	4,050	10	4,100	22	2	20	
Bainville	200	2	200	3	200	4	200	5	2	3	
Brockton	400	2	400	3	400	4	400	5	1	4	
Culbertson	850	2	850	3	900	4	900	5	3	2	
Froid	300	2	300	3	300	4	300	5	2	3	
Poplar	1,450	3	1,450	4	1,500	5	1,550	6	5	1	
Wolf Point	3,650	5	3,700	6	3,750	7	3,850	8	8	0	
ROSEBUD	8,000	10	8,750	15	8,750	24	8,850	49	7	42	
Forsyth	2,100	4	2,350	6	2,350	8	2,350	10	10	0	

	1980 Est.	1983 Lic.	1985 Est.	1987 Lic.	1990 Est.	1991 Lic.	1995 Est.	1995 Lic.	Now Issued	Added Licenses	Over Quota
TREASURE	600	0	550	0	500	1	450	2	0	2	
Hysham	600	2	550	3	500	4	450	5	2	3	
VALLEY	6,950	9	6,850	12	6,800	18	6,750	37	9	28	
Glasgow	5,400	6	5,300	8	5,250	10	5,200	12	11	1	
Nashua	600	2	600	3	600	4	600	5	3	2	
Opheim	350	2	350	3	350	4	350	5	3	2	
WHEATLAND	1,000	1	1,000	1	1,000	2	950	5	2	3	
Harlowton	1,350	3	1,350	4	1,350	5	1,300	6	6	0	
Judith Gap	150	2	150	3	150	4	150	5	2	3	
WIBAUX	850	1	850	1	850	2	800	4	0	4	
Wibaux	650	2	650	3	650	4	600	5	5	0	
YELLOWSTONE	24,950	33	28,150	50	31,100	84	34,200	190	20	170	
Billings	77,350	54	87,050	118	96,150	193	105,750	280	53	227	
Broadview	100	2	100	3	100	4	100	5	2	3	
Laurel	7,300	7	8,200	12	9,050	19	9,950	24	7	17	
TOTALS.....		976		1,510		2,222		3,754	1,365	2,462	73

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